9

STANDING COMMITTEE ON ENERGY
(1999-2000)

THIRTEENTH LOK SABHA

THE ENERGY CONSERVATION BILL, 2000

MINISTRY OF POWER

NINTH REPORT

सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI

November, 2000/Kartika, 1922 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON ENERGY

(1999-2000)

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SECRETARIAT

1. Dr. A.K. Pandey — *Additional Secretary*
2. Shri John Joseph — *Joint Secretary*
3. Shri P.K. Bhandari — *Deputy Secretary*
4. Shri R.S. Kambo — *Under Secretary*
5. Shri P.C. Tripathi — *Reporting Officer*

INTRODUCTION

I, the Chairman, Standing Committee on Energy having been authorised by the Committee to present the Report on their behalf, present this Ninth Report on the Energy Conservation Bill, 2000 relating to the Ministry of Power.

2. The Energy Conservation Bill, 2000 was introduced in Lok Sabha on 24.2.2000. The Hon'ble Speaker referred it to the Committee on 25.2.2000 for examination and Report. The Committee took oral evidence of the representatives of the Ministry of Power on 10.8.2000 and 11.8.2000.

3. The Committee heard the views of the representatives of the Indian Society of Lighting Engineers, Tata Energy Research Institute, Institution of Engineers (India) Limited and Central Power Research Institute during their tour to Bangalore in July, 2000. The representatives of Indian Electrical and Electronics Manufacturers Association also presented their views on the Bill before the Committee in course of their study tour to Mumbai during July, 2000. The Committee wish to express their thanks to the representatives of these organisations for sharing their considered views on the Bill.

4. The Committee also wish to express their thanks to the various experts/organisations for placing before them the requisite memorandum/material in connection with the examination of the Bill. The details of these experts/organisations are given in Annexure-III.

5. The Committee also wish to thank in particular the representatives of the Ministry of Power for appearing before them and placing detailed material before the Committee in connection with the examination of the Bill.

6. The Report was considered by the Committee at their sitting held on 27th September, 2000. The Committee further considered and adopted the Report at their sitting held on 4th October, 2000.

7. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in thick type in the body of the Report.

NEW DELHI;
November 6, 2000
Kartika 15, 1922 *(Saka)*

SONTOSH MOHAN DEV,
Chairman,
Standing Committee on Energy.

CHAPTER I

ENERGY CONSERVATION BILL, 2000

REPORT

Background

1.1 The economic development of a country is often closely linked to the consumption of energy. Although India rank sixth in the world so far as the total energy consumption is concerned, but India still needs much more energy to keep pace with its development objectives. If, for example, India is to achieve 7 to 8% growth in the economy, then it would need commensurate inputs of different energy resources; most of these will be in the form of fossil and electricity. The rising national demand for energy has been met to an increasing extent by the use of scarce depleting fossil fuels. While India has substantial proven coal reserves of 70 billion tonnes, it has very limited reserves of oil and natural gas having only 0.4 percent of the world's crude reserves. However, at current production rates, these reserves translate into an alarming low production ratio of 16 and 23 years for oil and gas respectively.

1.2 On the electrical energy front also, the growth in demand for power has exceeded the generation capacity augmentation as a result of which country is presently facing both energy (7.6%) and peaking shortage (14.5%). The country could not achieve the capacity addition targets during the Eighth Plan. A capacity addition of around 24,300 MW only is estimated to be achieved during 9th Five Year Plan against the target of 40,245 MW resulting in slippage of 43% in the capacity augmentation. As large investment is required in this field, the capacity addition has fallen short of targets. There is likely to be further increase in the demand for power in coming years as the present per capita consumption is very low as compared to other countries.

1.3 The per capita energy consumption of primary energy in India is only 277 kg of oil equivalent which is just 3.5% of USA, 6.8% of Japan, 37% of Asia and 18.7% of world average. But, Energy intensity, which is the energy consumption per unit of GDP and one of the factor which indicates how well the energy is being utilized, is one of the highest in comparison to other developed and developing countries. For example, it is 3.7 times of Japan, 1.55 times of USA, 1.47 times of Asia and 1.5 times of World average. The high primary energy consumption per GDP points towards energy wastages in the various sectors of the economy. Substantial amount of energy put into daily use is wasted as a result of losses due to deficiency in technology and improper utilization by the users.

1.4 Thus there is a huge scope for energy conservation in the country. While energy conservation aims at reducing the need for energy without reducing the end use benefit, it provides a range of important personal and societal rewards. First, conservation can save money—in the short run by reducing energy cost to the consumer and in the long run by reducing energy investment needs of the country. Second, conservation avoids the tremendous social and environmental costs inflicted by energy facilities, like emission of Carbon-di-oxide and other pollutants. Because of the wide range of benefits, conservation is occupying a pivotal role in the energy sector in developed countries, Our country also stand to benefit from conservation despite its relatively low per capita use of energy because conservation can help to reduce the energy expenditure and reduce the currently high level of energy intensity and the future capital requirements of energy sector.

1.5 Comparing the Energy Conservation effort world-wide, it has been mentioned to the Committee that all the developed countries have achieved very significant energy savings and have immensely benefited by it , over last three decades. Relentless conservation efforts have permitted the United States to hold energy use to 1973 levels while expanding the economy by 40 per cent. In fact since 1973, ,the world has saved far more energy through improved efficiency than it has gained from all new sources. Efficiency improvements have displaced $ 300 billion worth of oil, gas, coal and nuclear power annually in industrialized countries and the quest is on for further reduction in energy through intensive research, development and demonstration programmes. Most of the energy savings have been achieved by these countries through massive investment, on modern equipment and improved process technology and significantly less through low cost improvement measures in the existing equipment.

1.6 The industrial sector in India is a major energy user, accounting for about 52% of the commercial energy consumption. The sector has become increasingly energy—intensive over time, which is partly due to the emphasis laid in the past development plans on achieving self-reliance. Consequently substantial investment has been made in basic and energy intensive industries, such as steel, cement, fertilizer, heavy chemicals, refineries, aluminum and pulp and paper. Further, there are wide variation in energy and material consumption co-efficient among different units in the same industry using comparable technology (30 to 150%). The energy efficient units have been improving their efficiency year after year, while the not so efficient units have been lagging behind leaders and gap has been ever widening. There is still a vasts section of industry which need to improve their energy efficiency. In these industrial sub-sectors, the annual energy savings potential is estimated to be in the range of 7-12 million tonnes of oil equivalent.

1.7 With the above objectives in the mind, Government introduced the Energy Conservation Bill, 2000 in Lok Sabha on 24th February, 2000. The Bill was referred to the Parliamentary Standing Committee on Energy on 25th February under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha, for examination and Report thereon. A copy of the Bill as introduced in Lok Sabha is given as Annexure-I.

1.8 The Ministry of power in a note to the Committee stated that the salient features of the Bill are as under:

(i) The Bureau of Energy Efficiency (BEE) is envisaged to be established to carry out the purposes and objects of the Bill, by merging into it the existing Energy Management Centre (EMC).

(ii) The Central Government in consultation with the BEE will lay down energy conservation standards for any equipment or appliance consuming, generating, transmitting or supplying energy.

(iii) The Central Government in consolation with BEE will notify industries, establishments and any user or class of users of energy and building complex etc. as designated consumers having regard to intensity or quantity of use of energy. Designated Consumers will comply with energy consumption standards and norms. Different standards and norms could be prescribed for different designated consumers keeping in view distinguishing factors.

(iv) The Central Government will enforce a scheme for compulsory affixing of labels on notified equipment and appliances to indicate in a clear and readable manner, the rate of energy consumption of such equipment and appliances, at the stages of manufacture, import, supply, distribution and sale etc.

(v) As and when required by the designated authority, energy audit by an accredited auditor shall be mandatory for all designated consumers. Such consumers would be required to furnish returns on energy consumed and actions taken on the recommendations of the accredited energy auditor in the prescribed period and manner. The periodicity of the audit would be as notified by BEE. Energy managers with prescribed qualifications may also be required to be appointed by designated consumer. Such designated consumers would be required to submit a report on the status of energy conservation to the BEE on an annual basis.

(vi) The Central Government or an agency designated by it could ask any designated consumer, to prepare a schemes for energy conservation in a prescribed form and implement the schemes in the prescribed form and manner.

(vii) The Bureau of Energy Efficiency would prepare guideline for Building Codes relating to energy conservation. The codes could be notified to suit local climate conditions or other compelling factors. The Central Government or an agency designated by it or the concerned State Government, within its jurisdiction, will notify building codes in regard to efficient use of energy in any building or building complexes in respect of designated consumers, and will seek compliance of the same by the owner, occupier, contractor and architect of the building. Energy audit of specific designated consumers in respect of buildings could also be prescribed.

(viii) A State Government, may, in consultation with BEE designate one or more agencies to coordinate, enforce and regulate matters relating to implementation of the legislation within the State.

(ix) The Central and State Governments, and their designated agencies shall promote mass awareness for energy conservation, consumer education and consumer guidance. The governments shall also take steps to encourage preferential treatment for energy efficient equipments/devices and appliances.

(x) The legislation would also contain a saving clause indicating that "Notwithstanding anything contained in the Sections/Provisions of the Bill, the Central Government may, by notification, exempt any consumer or class of consumers from application of any provision of the Bill."

(xi) For the purpose of the above provisions, energy shall be defined as any form of energy derived from fossil fuels, hydro, renewable sources of energy, bio-mass, including electrical energy drawn from the grid. To ensure the requisite harmony in laws, requisite amendments in the relevant Acts particularly in Electricity Laws would also be carried out.

(xii) The Bill provides for levy of penalties in monetary terms for non-compliance of certain provisions. The penalty shall not exceed Rs. 1 lakh for each failure and in case of continuing failure with an additional penalty which may extend up to Rs. 10,000 for every day during which such failure continues.

(xiii) The adjudicating function is proposed to be assigned to the State Electricity Regulatory Commission(SERC). Wherever the SERC is not in position the State Government shall appoint the Law Secretary as its Adjudicating Officer.

1.9 Commenting on methodologies proposed to be adopted to achieve the objectives of the Bill, the Ministry of Power informed that they propose to target only the large energy consumers. A bench-mark energy consumption level for the purpose of this Bill will be provided in the rules. It is expected that not more than 10% of the industrial establishments who put together consume 70% of total energy in the country will be covered under this Bill. By designating energy intensive consumers, fixing energy norms for process, fixing standards of minimum energy consumption for designated equipment and appliances and creating awareness among the public through mandatory labeling of such equipment/appliances, the objective of the

Bill could be achieved. It is also proposed to prescribe energy conservation building codes for major establishment and commercial complexes like government offices, hotels, cinema theaters and shopping complexes. The government shall prescribe fixing of energy norms and minimum energy consumption standards which are done through participative and consensus approach. The standard upgradation process is gradual. The concern of the small and medium industry shall be taken care of by fixing such energy consumption standards which are achievable. Third party investment through performance guarantee contract mechanism will bring about energy efficiency in the manufacturing process of the small and medium scale industries, which are not covered under this Bill. Mandatory energy audit for designated consumers will create awareness regarding the quantum of energy saving possible, total investment required in retrofittings and the cost benefits of such investments. It is found that investments in energy efficient projects are highly attractive. Lack of knowledge & information regarding services available and absence of Energy Service Companies are the main barriers. Investments in energy efficiency projects are expected to come from third party through performance guarantee contract mechanism. The Government through Bureau of Energy Efficiency will endeavour to create demonstrations. The designated consumers will enormously benefit from such energy audits which will help in reducing the manufacturing cost. Similarly, mandatory labeling will make the consumers aware that they can exercise their diligence before effecting a purchase.

1.10 When asked about the necessity of bringing separate legislation on Conservation of Energy especially when Electricity Bill 2000 is in the offing, the Ministry in a written note stated that the Electricity Bill 2000 deals with generation, transmission and distribution of electricity energy. Energy Conservation Bill -2000 is a more broader bill and covers all forms of energy such as coal, oil, electricity, nuclear, renewables etc. The object of Electricity Bill 2000 is to accelerate the process of reforms and restructuring of utilities engaged in the production, transmission and distribution of electricity at the Central, State and Municipal level. The legislative changes proposed are mainly with a view to accelerate the reform process. The focus of the legislation on Energy Conservation is to provide an impetus to the adoption of Demand Side Management by providing the frame work to consumers to use energy more effectively. Energy savings achieved through energy efficiency and conservation not only saves the investment required for additional capacity but also saves fuel and also results in saving of capital investment in fuel, mining, transport, water and land required for power plant and helps in mitigating pollution. The impact, therefore, of energy efficient options (EEO) which save costs to the consumer, utility and society has to be explored/exercised.

1.11 The Committee have observed that the growth in demand for power far outstrips the generation capacity augmentation. As a result, the country is facing energy and peaking shortage to the tune of 7.6% and 14.5% respectively. A danger of slippage by 43% in the capacity addition during Ninth Plan is looming large and may further aggravate the shortage of power in the country. The depleting energy resources in the world, including India, heavy dependence on import of petroleum products, high energy intensities and inefficient use of energy have triggered a review of energy policies in the country. It is in this context that energy conservation has gained currency. The advantages accruing due to energy conservation measures such as reduction of energy needs without reducing end use benefits, savings—in the short-term by reducing energy cost and in long run by reducing energy investment needs, avoidance of social and environmental costs inflicted by energy facilities like emission of pollutants and the existing potential that are available, have become pivotal and gained centre stage in determining energy policies especially in demand side management of power. It is in this background that the Committee welcome the laudable objectives of energy conservation, as enshrined in the Bill. The Committee also appreciate that for the first time a serious attempt has been made and a plan of action drawn to manage energy from the demand side, which hitherto was addressed to only from the supply side. The Committee, therefore, approve the present Bill subject to their observations/recommendations which are outlined in the succeeding chapters.

1.12 The Committee concur with the views of the Government that since the proposed Electricity Bill, 2000 is likely to deal with generation, transmission and distribution of electric energy and the Energy Conservation Bill, 2000 covers all the forms of energy such as coal, oil, nuclear, renewable sources, etc. there is a necessity of bringing separate legislations on these matters. Moreover, the Electricity Bill, 2000 is in pursuance of power sector reforms, the focus of Conservation Bill is to provide an impetus for providing the necessary framework to consumers to use energy more efficiently and prudently. Accordingly, the Committee recommend that both these Bills should remain distinct and separately dealt with.

CHAPTER II

DEFINITIONS

Clause 2(f): Energy

2.1. The term "Energy" has been defined under clause 2 (f) and means any form of energy derived from fossil fuels, hydro-electricity and includes electrical energy or electricity generated from renewable sources of energy or bio-mass connected to the grid.

2.2 On a suggestion by CEA to include energy produced from nuclear plants, the Ministry of Power clarified that—it was not the intention of the Government to exclude nuclear energy in the definition of "energy". The same term is to be amplified in consultation with the Law Ministry.

Asked whether the matter has been taken up with Ministry of Law, the Ministry of Power stated that "the inclusion of nuclear energy in the definition of 'energy' will be considered after consulting Department of Atomic Energy as suggested by the Legislative Department, Ministry of Law. The matter is being taken up with the Department of Atomic Energy".

2.3. The representative of TERI and FICCI were of the view that the Bill is structured considering electricity as a major form of energy consumed in different sectors of economy. To achieve overall improvement in energy efficiency it is equally important to improve the efficiency of thermal systems. Since a large amount of primary energy is also used in various sectors of economy, the Bill should address the issue of fuel pricing and quality of fuel in its provisions.

2.4. Reacting to this, Ministry of Power clarified that the provisions of the bill would be applicable based on the intensity or quantity of energy consumed by the consumers and energy consumption standards and norms as notified. Here the term "energy" includes all forms of energy as defined in Section 2(f) and the proposed bill is not structured for covering electricity only as a major form of energy. On the question of pricing and quality of fuel, Ministry of Power stated that a different mechanism exists for pricing of different fuels such as coal by Ministry of Coal, Petroleum by Ministry of Petroleum & Natural Gas and electricity tariffs by Electricity Regulatory Commission. In some cases fuel price are being determined by market forces while in other cases Government has taken initiatives to streamline the energy prices to reflect the true cost. The Advisory Committees to be constituted and defined in the regulations of the Bill would also look in the important aspects of fuel pricing which would provide the much needed boost to the energy efficiency activity. It is true that fuel quality influence energy consumption and wastage. This issue would be addressed while developing norms for the process, standards for equipment & appliances and while bringing accountability in distribution of electricity.

2.5. Petroleum Conservation and Research Association (PCRA) in a written note furnished to the Committee stated that "energy" as elucidated in the Bill includes Petroleum. However, apparently it seems that main emphasis on the Bill remains on electricity. They were of the view that while framing of the corresponding rules for implementation of the Bill, the thermal equipment/appliances working on Petroleum in the major sectors of our economy may also be included.

Clause 2(g): Energy Audit

2.6. According to the definition of Energy Audit, as mentioned in Clause 2(g), it means "verification, monitoring and analysis of use of energy."

In this context CII suggested that supply side efficiency *i.e.* including generation and distribution should also be highlighted in the proposed legislation. Another non-official organisation elaborating the point opined that "Energy Audit" involves a detailed study and analysis on the use of energy by consumers and utility/and as such the submission of a technical report containing recommendations and plan of action to improve the efficiency levels of energy consumption, should form part of the definition.

2.7. Commenting on this issue, Ministry of Power stated that energy audit is a systematic tool for analysing the flow of energy, its efficient use and its conservation and for pin-pointing waste areas and to identify energy saving options including techno-economics to make informed discussions. The supply side (thermal generating stations) also consume energy for conversion of fossil fuel into electrical energy and hence are covered as a major target group. The distribution of electrical power involves transmission of energy form the point of generation to the point of use. There are losses while conveying electricity from generation end to the end-use. Hence distribution is covered as a target group in the schedule for reducing losses through energy accounting. These energy users are included in schedule attached to the Bill. Undertaking an exercise to conduct of energy audit in the designated consumer premises also includes submission of a technical report containing recommendations for improving energy efficiency with their cost benefit analysis and an action plan to reduce energy consumption. Concurring with the views, Ministry of Power agreed that while defining the terms of reference of energy audit, the above observation would also be included.

Clause 2(f)

2.8. **'Energy' as defined under Clause 2 (f) means any form of energy derived from fossil fules, hydro-electricity and includes electrical energy or electricity generated from renewable sources of energy or bio-mass connected to the grid. The Committee are of the considered view that since some power is sourced from nuclear materials also and the country has a plan to develop it further and this power is also connected to the grid, the exclusion of /'nuclear substances' from the purview of the definition of energy is neither justified nor desirable. The Committee, therefore, recommend that the definition of energy be amplified and should also include 'nuclear substances/materials', from which energy can be derived.**

2.9. **Energy Audit, as defined under Clause 2 (g), means the verification, monitoring and analysis of use of energy. In the opinion of the Committee, the exercise to conduct energy audit would be infructuous and futile unless and until follow-up action is accompanied with it . The Committee, therefore , recommend that the definition of 'Energy Audit' be amplified to include submission of technical report containing recommendations for improving energy efficiency with their cost benefit analysis and an action plan to reduce energy consumption.**

CHAPTER III

BUREAU OF ENERGY EFFICIENCY (BEE)

3.1 Clause 3(1) of the Bill states that the Central Government shall establish a Bureau to be called the Bureau of Energy Efficiency (BEE). The Bureau of Energy Efficiency is envisaged to be established to carry out the purposes and objects of the Bill, by merger of the existing Energy Management Centre (EMC)

3.2 Asked about the reasons for not upgrading and entrusting the proposed work of BEE to EMC, the Ministry of power in their note furnished to the Committee stated that EMC, in its present from , is a registered Society which cannot fulfil the legal requirements and hence need for creation of a Nodal agency such as BEE with legal backing .

3.3 When the Committee enquired the legal requirements needed for the purpose, it was informed that the legislative powers are required for the following functions:

- "Declaring user or class of users of energy as a designated consumer.
- Laying down energy consumption standards and norms for industrial process for energy intensive industries included in the schedule defined in Clause 2 [r] .
- Ensuring that mandatory energy audit is conducted and that flow of information from the designated consumers takes place regularly.
- Specifying energy consumption standards and labelling for selected appliances/equipment.
- Appointment of energy manager by a designated consumer.
- Accreditation of energy auditors.
- Formulation of energy conservation building codes.
- Establishment of energy conservation fund.

Moreover, for fixing of energy consumption standards and for notifying appliances/ equipments and also for enforcement of norms on energy consumption in process a legal framework is required. The Bureau of Indian Standards (BIS) is able to fix the standards because it has backing of the BIS Act, 1986. The Bureau of Indian stardred is a statutory organisation set up under the BIS Act, 1986. The Bureau of Energy Efficiency is to be set up onlines of BIS. BEE requires a legal backing in order to be able to make regulations consistent with the provisions of the Energy Conservation Bill and rules made thereunder.

The Energy Management Centre (EMC) being a society registered under the Societies (Registration) Act, cannot discharge these responsibilities, and hence it is proposed to create a Bureau of Energy Efficiency by merging EMC.

Once EMC is replaced by BEE it will be better equipped with technical manpower and power to implement the provisions of the Bill. The Energy Management Centre will get entirely merged with BEE and further technical manpower requirement will be drawn only from the existing institutions/Departments of the Government of India."

3.4. Asked whether Central Electricity Authority can be entrusted with the responsibility of implementing the provisions of the Bill, the Ministry of power strongly opposed the move and stated as under:

> "Energy Management Centre was set up in 1989 under the Ministry of power to promote efficiency and conservation in various sectors of the economy in the country. EMC has effectively networked with various national and international agencies and organizations involved in the field of energy conservation such as National Productivity Council, Confederation of Indian Industry, Tata Energy Research Institute, Federation of Chambers of Commerce & Industry, European Union, GTZ of Germany, UNDP, Department of Energy (DoE), USA, Asian Institute of Technology, Bangkok etc. EMC has developed expertise in the matter. EMC has since then done commendable work during the last 10 years and have strengthened energy auditing capabilities in the country. Similarly a national energy database, and energy audit manuals for the industry were developed, Awareness on Energy, Conservation through multimedia covering domestic, commercial, agriculture and

industrial sector was also undertaken. The functions of Bureau as envisaged in the Bill require in-depth understanding of the different barriers in adoption of energy efficiency measures among the stakeholders such as industry, equipment manufactures, industrial associations, consumer group etc. and such barriers could be effectively renowned through timely policy intervention. This practice has been followed in other countries as well such as Japan, Korea, Canada, UK etc.

A specialized set up is required for the country. There is also a need for a separate body on energy efficiency so as to have a sharp focus on the subject.

On the other hand, the Central Electricity Authority is a statutory organisation constituted under Section 3(1) of the Electricity (Supply) Act, 1948. CEA mainly deals with electricity generation, transmission and distribution, CEA's expertise basically lies in electricity generation and transmission, whereas energy efficiency and conservation covers all other forms of energy as well. CEA's interaction with industries is mainly restricted to collection of information relating to captive and co-generation power.

The subject of energy efficiency goes beyond the generation, transmission and distribution of electricity. The activities envisaged in the Bureau is of promotional nature and would need a pro-active approach with industry and other consumers. CEA which is purely a government organisation with no prior experience in promotional activity and other activities envisaged in the Bill excepting Supply side activities in the electricity sector only.

Further the staff strength of BEE is proposed to be not more than 20 professionals which will be drawn from existing EMC, EC wing of the Ministry of power and other posts available in power and other line Ministries. No new staff strength is proposed. Accordingly, it has been proposed in the Bill to merge the existing EMC with the Bureau. The EMC with expertise, networking culture with industry, manufactures , related industrial associations, NGOs, multilateral and bilateral and consumers would need to be preserved. The capacity building by EMC would go a long way in achieving objectives of the Bill...."

3.5 Commenting on the role and necessity of proposed BEE an association (Greater Mysore Chambers of Industry) questioned the creation of yet another Government institution in the form of Bureau of Energy Efficiency (BEE). They opined that while the country is in the process of eliminating various Government controls and dismantling Government organisations, creation of BEE will be a retrograde step. The BEE vested with wide ranging mandatory powers may cause harassment to millions of users of electricity and the natural outcome of excessive control would be corruption and may lead to Inspector Raj. Justifying the creation of BEE, the Ministry of Power in a note furnished to the Committee stated that BEE *inter-alia* is expected to carry out the following functions:—

* Promote innovative financing.
* Provide inputs on energy efficiency to Department of Energy Conservation in formulating energy efficient policy.
* Create awareness in regard to energy conservation and dissemination of information concerning conservation of energy.
* Promote testing facilities for equipment and appliances.
* Develop facilities for testing and certification of identified devices.
* Arrange and organise to train personnel and specialists in the area of energy conservation and to certify energy engineers.
* Organise to build norms and standards of energy consumption for equipment process and appliances.
* Organise to prepare guidelines for Central Building Codes.
* Promote research and development in the field of energy conservation.
* Facilitate formulation and implementation of demonstration projects for promotion of energy conservation.
* Promote the use of energy efficient process and equipment, devices and systems.

3.6 In the opinion of Tata Energy Research Centre the objectives behind creation of BEE are very important, but these should be achieved through other means—consumer education and training, creating awareness on the benefits of Energy Conservation through publicity, and by very vigorous information dissemination process by which informative leaflets, booklets, manuals, case studies, demonstration projects, video films, seminars, workshops, in plant training, etc. are made available.

3.7 One organisation in a note to the Committee pointed out that the consumer willing to invest in energy efficiency equipments has no incentive to do so as he knows his bill amount would not reduce even if he reduces his consumption. This is because he is operating much below his sanctioned load but there is a minimum bill that he has to pay.

Justifying the creation of BEE, the Ministry of Power in a note furnished to the Committee stated that BEE will primarily function as a facilitator in the promotion of Energy Conservation and efficiency programme by coordinating with various concerned agencies such as BIS, Central and State Government agencies , Non-Governmental agencies, consumers and manufacturers and their associations ,different laboratories and financial institutions and external multi-lateral and bi-lateral aiding agencies.

3.8 The Bureau of Indian Standard (BIS) has informed that it is dealing with standardization and quality control. It is also operating Certification Marks Scheme for over four decades . It was suggested that the Bill should make adequate provisions in Clause 13 to prevent any clash between BIS and BEE over fixing of standards. It was also suggested that one of the functions of BEE should be to take cognizance of work done by BIS in the field of Energy Conservation Standards, national building codes and national electrical codes.

The Ministry of Power reacting to above suggestions mentioned in their reply as under:—

> "The Bureau of Indian Standards (BIS) was established under the BIS Act 1986 for the harmonious development of the activities of standardisation, marking and quality certification of goods. The main emphasis of Bureau of Indian Standard, while developing standards for the goods consuming energy is to

concentrate on design, safety, quality control beside energy consumption standards. However, the standards developed by BIS are purely voluntary. Under Clause 13 the Bureau of Energy Efficiency would be required to identify equipment and appliances and fix-up the minimum energy efficiency standards which would be of mandatory in nature. While doing so, the Bureau of energy efficiency shall coordinate with designated consumers, designated agencies and utilise existing resources and infrastructure in performing the functions assigned to the Bureau. It has been further envisaged in the Bill that the Bureau shall work in tandem with the Bureau of Indian Standards for development and notification of standards and norms and also interact with other agencies. Therefore, no clash between BIS and BEE is anticipated over fixing of standards as the Government intends to utilise all existing expertise source and infrastructure available with BIS. It is further intended that BEE would develop mandatory standards for equipment & appliances, building codes and labelling work for the designated equipment and appliances in complete harmony and support with BIS".

3.9 The Committee feel that while the objective behind the Energy Conservation Bill is laudable, the means to achieve this objective through creation of a Bureau of Energy Efficiency as envisaged in the bill is debatable. While the country is in the process of dismantling and eliminating various controls, the bill seeks to introduce mandatory control measures. The creation of BEE with very wide mandatory powers would need a huge bureaucratic organisation to enforce the provisions under the bill and it is difficult to accept the Government's contention that it will be a lean organisation with a total staff strength of not more than 20 or so. Inspection based regimes are expensive and need a large staff for implementation. The Committee desire that the Government while setting up BEE should try to achieve the objectives of the bill through other means also like consumer education and training, creating awareness on the benefits of energy conservation through publicity and by information dissemination process through electronic media and should not place too much dependence on inspections, etc.

3.10 The Committee have also noted that there is no incentive to encourage conservation of electricity, as minimum charges are required to be paid by the consumers. The Committee desire that to promote energy conservations in a big way, Government should review the concept of minimum charges levied by SEBs and other power utilities. Accordingly, a consumer should be charged for the

actual consumption of power/electricity, without insisting on minimum charges. Morever, the procedure to downgrade the sanctioned load should also be made easier, so that consumers are tempted to reduce their consumption level.

3.11. The Committee have noted that one of the functions envisaged for BEE is to formulate and facilitate implementation of pilot projects and demonstration projects for promotion of efficient use of energy and its conservation. The Committee , are of the opinion that to trigger energy conservation movement in the country, a few Government office buildings, hospitals, railway stations, airports, schools and colleges should be taken up as a model project in each district/state. The results achieved as a result of undertaking such an exercise should be widely publicised , so that consumers are enthused to take up energy conservation measure in a big way.

3.12 The Committee note that in terms of the Companies (Disclosure of Particulars In The Report Of The Board Of Directors) Rules 1988, framed under Companies Act, a company is required to furnish particulars regarding measures taken to conserve energy. However, not much attention is paid to such information and data and is dealt with very casually. The Committee desire that Government should also make use of this information and monitor & assess the energy conservation measures closely, so that companies take steps to conserve energy in the right earnest.

3.13 The Committee desire that Bureau of Energy Efficiency (BEE) should propagate and promote the use of energy efficient processes, equipment devices and systems. BEE should impress upon FIs, Bank and other lending institutions, the imperative need to consider and follow their (BEE) guidelines while granting loan for new activities. In the opinion of the Committee, such a measure would boost the concept of energy conservation to a large extent. The Committee also recommend that the Union Government should review the energy conservation equipments to be eligible for 100% depreciation, in consultation with the Bureau of Energy Efficiency.

3.14 The Committee note that the Bureau of Indian Standards (BIS) is dealing with standardisation and quality controls. It has also been operating Certification Marks Scheme for over four decades. The Committee desire that BEE should take cognisance of work done by BIS in the field of energy conservation standards, national building codes and national electricity codes, etc. and there should be no clash between BIS and BEE over fixing of standards.

CHAPTER IV

MANAGEMENT OF BUREAU OF ENERGY EFFICIENCY

Governing Council

4.1 Clause 4(1) of the Bill provides that the general superintendence, direction and management of the affairs of the Bureau shall vest in the Governing Council which shall consist of not less than ten, but not exceeding fourteen members to be appointed by the Central Government .The composition of the Governing Council as prescribed by Clause 4 (2) shall be:—

(a)	The Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Power.	Ex-officio Chairperson
(b)	The Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Petroleum and Natural Gas.	Ex-officio Member
(c)	The Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Coal.	Ex-officio Member
(d)	The Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Non-Conventional Energy Sources.	Ex-officio Member
(e)	The Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Consumer Affairs.	Ex-officio Member

(f) Such number of persons, not exceeding eight as may be prescribed, to be appointed by the Central Government as members from amongst persons who are representing State Governments and who are in the opinion of Central Government capable of representing industry, equipment and appliance manufacturers, architects and consumers.

(g) Director -General of the Bureau. } Ex-officio Member-Secretary

The Governing Council is to exercise the powers and do all acts and things which may be exercised or done by the Bureau. {Clause 4 (3)}

4.2. A non-official organisation, the Surya Foundation suggested that the Governing Council should also include representatives from major Energy User Ministries e.g. Railway, Surface Transport, Steel & Heavy Industries as also Urban Development (regarding building codes). They also stated that it should have a representative from Finance Ministry as issues like fiscal & tax incentives may have to be planned & implemented through Annual Budgets. Another non-official organisation suggested that instead of setting up of a Governing Council it should be an autonomous commission with authority and responsibility.

4.3 A representative of a Political Party (Janata Party) was of the view that "...............................the members to be appointed by the Central Government" should clarify the appointing authority. Since the 'Bureau' concerns five different Ministries, the Appointment Committee should consists of these five Ministers (including of the Departments of Power, Petroleum & Natural Gas, Coal, Non-Conventional Energy Sources and Consumer Affairs). They should appoint different functionaries in consultation with Leaders of the Opposition in Lok Sabha and Rajya Sabha, and the Speaker, Lok Sabha.

4.4 An expert in the field (Shri G.M. Phadke) was of the view that the person to be appointed as member of the Governing Council under clause 4 (2) (f) should not be restricted to only those representing State Governments; but also include representatives from designated consumers and consumer organisations. If necessary , a separate clause for such members may be incorporated since they may not be full time employees of Central and State Government. They may be "invited' for meetings to participate in the discussions and take decisions but may have no say in the administration. In order to restrict the size of Governing Council the "Invitees" may be invited only when matters relevant to interest, which they represent, are being considered in the meeting, if necessary, the act may provide creation of an advisory body of such members and experts, whose expenditure towards attending such meetings be also met by the Government.

4.5. Reacting to the suggestion of putting BEE under PMO or making it a separate Department, Ministry of Power in their written reply stated that "As per business allocation coordination of energy efficiency and conservation has been assigned to the Ministry of Power." Commenting on the composition of the Governing Council, Ministry of Power stated that the Governing Council consist of not more than 14 members. Out of 14 members, 5 members including the Chairman of the Bureau are proposed to be from the Government, representing, Ministry of Power, Ministry of Coal, Ministry of Petroleum & Natural Gas, Ministry of Non-Conventional Energy Sources and Ministry of Consumers Affairs, adequate representations up to 8 members are given to representatives of industry, equipment and appliances manufacturers, architects, State Government and consumers. Justifying the inclusion of Government nominees, the Ministry of Power stated that various international commitments such as climate change and Kyoto protocol which envisages sustainable development, clean development mechanism and improvements in energy efficiency are to be kept in mind while formulating policies of BEE. Members from the Government will be in a better position to contribute on the policy formulation in the Bureau as well as help in implementing these policy directions within their Ministries. It is further stated that in order to provide input to the Governing Council, in terms of the Government thinking and to provide policy intervention within the line ministries, there is a need for Government representatives in the Governing Council of BEE, the Governing Council would provide overall guidance and policy direction to the Bureau and empower the Director General of the Bureau to carry out day-to-day operations of the Bureau".

4.6. Asked whether there should be representation from Ministry of Industry, Ministry of Surface Transport and Ministry of Environment etc. The Ministry of Power in a written note stated that as many as 8 members representing State Government and capable of representing industry, equipment & appliance manufacturers, architects and consumers can be appointed on the Bureau of Governing Council.

4.7. The Committee suggested that the representatives of Bureau of Indian Standards (BIS), which is a National Standard body and Ministry of Urban Development can also be included so that Standards/Norms and building codes, respectively as envisaged in the Bill could be ensured. Similarly, it was also suggested that Secretary Department of Atomic Energy, Energy Management Consultants, Energy Service Companies, Testing Institutions, R&D organisations (CSIR), power utilities in the development of generation and T&D, FIs and Small and Medium enterprises also be considered for representation in the Governing Council. Further more, inclusion of the representatives from designated consumers and consumer organisations and not those representing State Governments as members in the Governing Council be also considered.

4.8 The Ministry of Power, reacting to the above suggestions informed that they welcome suggestions of the Committee and these will be incorporated at the time of implementation. The Ministry also agreed to increase the strength of Governing Council to such number so as to give more representation to State and other stake holders like Surface Transport, Environment and Industry. It was also agreed to be have one member each of the five power regions representing the States of the region.

Technical Committees

4.9 Clause 8 contains the provision for the constitution of Advisory Committees and other Committees. According to the clause 8(1), the Bureau may from time to time and as and when considered necessary, constitute Advisory Committees for the efficient discharge of its functions. Each Advisory Committee is to consist of a Chairperson and such other members as may be determined by regulations [Clause 8(2)]. The Bureau is to constitute such number of technical committees of experts for the formulation of energy consumption standards or norms in respect of equipment or processes, as deemed necessary. [Clause 8(3)].

CII in a note furnished to the Committee suggested that constitution of Advisory Committees should be made mandatory with defined scope/ procedure /tenure /selection criteria etc.

4.10 Commenting on this suggestion, Ministry of Power informed that the Advisory Committees are to compose of representatives drawn from the Railways, Ministry of Industry, Department of Science and Technology, Ministry of Environment and Forests, Bureau of Indian Standards, Civil Aviation, CSIR etc. The Bureau may also constitute technical committees of experts for formulation of energy consumption standards for equipment and appliances or norms for processes, as it considered necessary. The norms for process and energy consumption standard could be evolved on a participating basis with all the stake holders through constitution of Advisory technical Committees.

Appointment of Director-General

4.11 The appointment of Director-General of Bureau is provided under Clause 9 and reads as under:—

"9(1) the Central Government shall, by notification, appoint—

(a) any person not below the rank of Joint-Secretary to the Government of India as Director-General of the Bureau.

(b) any person not below the rank of Deputy Secretary to the Government of India as Secretary of Bureau.

(2) The Director-General shall be person of ability and standing, having adequate knowledge and experience in dealing with matters to energy production and supply and efficient use of energy and its conservations.

(3) The Director-General shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty years, whichever is earlier.

(4) Other terms and conditions of service of the Director-General and Secretary of the Bureau shall be such as may be prescribed.

(5) Subject to general superintendence, direction and management of the affairs by the Governing Council, the Director-General of the Bureau shall be the Chief Executive Authority of the Bureau.

(6) The Director-General of the Bureau shall exercise and discharge such powers and duties of the Bureau as may be determined by regulations."

4.12. When the Committee printed out that the Director-General to Governing Council should also be well-versed with energy management, standards standardisation and quality control instead of efficient use of energy conservation only, the Ministry of Power while welcoming the suggestion informed the Committee that it would be included in the Bill.

4.13. The duties and responsibilities assigned to the Governing Council are more of technical in nature rather than administrative. However, the Committee are constrained to note that excessive representation has been given to non-technical personnel. Moreover, while determining the composition of the Governing Council, the expertise and infrastructure available with the Central Electricity Authority,—the technical arm of Ministry of Power, has been ignored. The Committee are of the strong view that ex-officio Members should not be Secretaries to Government of India but personnel drawn from professional bodies/institutions/agencies. The Committee, therefore, recommend that professionals, under the ambit of the related Ministries, should be nominated as ex-officio Members. For instance, DG Central Power Research Institute, Chairman, Central, Electricity Authority; DG, Petroleum Conservation and Research Association, Dir. Central Mine, Planning & Design Institute Ltd., DG, Bureau of Indian standards, DG, National Test House under Ministry of Commerce, etc. can be considered for nomination as ex-officio Members/Members. Similarly, professionals may also be drawn from MNES. The chairperson of the Governing Council should be Cabinet Secretary or some sufficiently senior person. The Committee also desire that composition of Governing Council be further strengthened and broad based by giving representation to representatives from designated consumers and one member each of the five power regions representing the States of the region. In case, nuclear energy is also included under the definition of energy, Managing Director, Nuclear Power Corporation India Ltd. or Director, Bhabha Atomic Research Centre can be nominated as ex-officio Member. The Committee also desire that Member-Secretary of the Governing Council should be an academician or individual working in specialised private/Government organisation(s). Such a step will impart true professionalism in the working of the Bureau. In view of the recommendations made above, the Government may consider laying down criteria for selection of the members of the Governing Council as well as terms and other conditions of their employment.

4.14 Clause 9 provides for the appointment of the Director-General and Secretary to the Bureau and their eligibility and other terms and conditions for their appointment. Taking into consideration the nature of duties and the work required to be performed by DG, a prominent individual preferably from the profession, ought to be appointed DG of the Bureau. As such prescribing a rank of Joint Secretary to Government of India, a pre condition to hold the post of DG, may bar recruitment of an academician, industrialist or a professional to this post. The Committee, therefore, recommend that such a stipulation may be done away with so as to strengthen BEE. Therefore, any person of ability and standing, having adequate knowledge and experience in dealing with the matters relating to energy production, supply and energy management, standardisation, quality control and efficient use of energy and its conservation should be eligible for appointment to the post of Director-General of the Bureau.

4.15 The Committee note that Constitution of Advisory and Technical Committees, as envisaged under Clause 8, is discretionary. Such a discretion is to be exercised "as and when it is considered necessary". In the opinion of this Committee, the constitution of these Committees may not be left to the discretion of the Bureau. The Committee, therefore, recommend that Constitution of these Committees should be mandatory with well defined scope, procedure, tenure and selection criteria for their functionaries. These Committees should be formed within a period of six months, from the date of Constitution of the Governing Council.

The Committee desire that representatives drawn from CEA, Railways, Industry, Department of Science and Technology, Ministry of Environment and Forests, Civil Aviation, Council of Scientific & Industrial Research (CSIR), Energy Consultancy Organization, Testing Institution, FIs, Small and Medium Enterprises, Power utilities in the development of Generation, Transmission & Distribution, designated consumers and Consumer Organizations, etc. should be nominated on various Advisory Committees, so that the interests of various consumers can be taken note of. The representatives associations/organizations of manufacturers/users of equipments and appliances can also be nominated on such Committees. The Committee also desire that members of the Technical Committees should be technical persons from public/private sectors who have made their mark in the various fields relating to Energy/Energy Auditing.

CHAPTER V

DESIGNATED CONSUMERS AND ENERGY AUDITS

5.1. Clause 14(e) of the bill provides the Central Government with powers to specify in consultation with BEE having regard to the intensity cr quantity of the energy consumed any user or class of users of energy as 'Designated Consumers' for the purpose of this Bill. Initially a unit having connected load of 5 MW and above and or consuming 20 MT of oil equivalent per hour on an average is proposed to be specified as a 'Designated Consumer'. The small and medium industries may not fall into the category of designated consumer for the time being. Designated Consumers will comply with energy consumption standards and norms. Different standards and norms could be prescribed for different designated consumers keeping in view distinguishing factors. The Central Government in consultations with BEE can also direct the designated consumers to take up energy audit by an accredited energy auditor on certain periodicity. The energy audit report will provide techno-economic information about energy efficiency measures required, the possible investment and the cost benefit analysis. The designated consumers, could be directed by the Central Government to prepare and implement an action plan for promoting energy conservation and achieve the prescribed norms and standards. The Central Government can also direct the designated consumers to appoint energy managers.

5.2. The Committee pointed out that energy audits are highly technical and often recommendations which are controversial, it is not necessary that the recommendations of one auditor will be the same as that of another and that the management of industry agrees with all the recommendations made by the energy auditors. The industry may not be able to implement some recommendations requiring huge investments.

5.3. The Ministry of Power in a note furnished to the Committee stated that the Bill does not envisage any compulsion on the designated consumer to implement all the recommendations of the accredited energy auditor. The designated consumer is free to implement only those recommendations which are techno-economically viable and environment friendly. Also no penalty is envisaged in the bill for non-implementation of such recommendations and schemes.

5.4. Clause 38 confers powers upon the Central Government and the State Government to exempt in public interest any designated consumer or class of designated consumers from application of all or any of the provisions of the proposed legislation.

5.5. Clause 14(e) of the bill empowers the Government to declare an energy consumer as 'Designated Consumer'. The Committee desire that while notifying the designated consumers apart from the quantity of energy used, two other factors may also be kept in mind *viz.* (i) the amount of investment required for switching over to energy efficient equipments and capacity of the industry to invest in it; and (ii) the easy availability of the energy efficient machinery and equipment required by the industry notified as designated consumer.

5.6. The Committee have observed that under clause 38, the Central Government have power to exempt certain designated consumers or class of consumers from the applicability of any or all provisions of this Act. In the opinion of the Committee such a power is to be exercised with due care and caution. Accordingly, the Committee recommend that the manner in which the power is to be exercised, the competent authority to take decision and time period for which the exemption is to be effected, should be spelt out in the Bill itself.

5.7. The Committee also desire that Defence, Atomic Energy and other sensitive installations such as manufacturers of arms and ammunition should be kept outside the purview of this bill. On the other hand, the inefficient agricultural electrical appliances and accessories which consume a high amount of energy should be covered under the act.

5.8. The Committee note that the Government have the power to ask the designated consumers to carry out energy audits and can direct to prepare and implement an action plan for promoting energy conservation. But the recommendations of the auditors may not be acceptable to the management due to various reasons. The Ministry of Power have pointed out that the Bill does not enforce any compulsion on the designated consumer to implement all the recommendations. But the Committee find that such an intention of the Government is not reflected in the provisions of the bill. The Committee, therefore, desire that this should be properly reflected in the related provisions of the bill. The power of the Government to direct any designated consumer to appoint energy managers under clause 14(l) also needs to be gone into. It should be left to the discretion of the designated consumers to decide whether they need such a person or not and whether they can themselves meet the obligations laid down by Act.

Energy Auditors

5.9. Clause 14(h) empowers the Central Government to direct any designated consumers to get energy audit done by an accredited energy auditor in such manner and intervals of time as may be laid down by regulations.

5.10. When pointed out by the Committee that energy audits are highly technical and often make controversial recommendations and how the Government propose to deal with it, the Ministry of Power in a note to the Committee stated that the experience of mandatory audit introduced by some States reveals that the accreditation procedure would need to be improved. While fixing Criteria for accreditation of energy auditors, care would be taken to create professional auditors of high competence. Since energy audit is a systematic approach for identifying energy conservation opportunities, uniform quality of analysis and identification of options is expected. Moreover, the Government propose to build capacity in energy auditing and high level of training imported along with on the job training would provide highly competent and professional auditors. To provide uniformity and quality of services of energy auditors The Ministry of Power has instituted a study to identify accreditation procedures, minimum qualifications and other qualifying criteria for the accreditation of an individual and energy auditing agency. The proposed Bureau would also be undertaking the job of arranging and organising training of specialists in energy efficiency and conservation.

5.11. Under clause 13 (2) (p) the Bureau have the power to specify by regulations qualifications for the accredited energy auditors. It has been suggested to the Committee that a separate body from BEE like National Accreditation Body/Board should be formed for qualifying energy auditors. The process for qualifying should be similar to something like ISO 9000/14000. The Government should not be an accrediting agency.

5.12. Reacting to the above suggestion, the Ministry of Power in a note stated:

> "The Government is in the process of instituting a study to identify institutional arrangements for accreditation of energy auditors and evolve procedures for accreditation of individual energy auditor and auditing agency. The study would also evolve methodology for selection of national level institutions which would accredit energy auditors and energy auditing agency on behalf of the Bureau of Energy Efficiency. Therefore the suggestion for a separate body from BEE for accreditation is already under investigation. However, we welcome the suggestion on qualification criteria for accreditation similar to something like ISO 9000/14000. The suggestion would be brought to the notice of the agency proposed to be commissioned for the purpose."

5.13 Further emphasising the point, the Ministry explained the action being taken by them in regard to procedure for accrediting energy auditors:—

> "Energy Management Centre has assigned the job to National Productivity Council to fix norms and qualification for accreditation of energy auditor for energy audit companies/ agencies. BEE after its establishment shall use the norms prescribed by NPC and undertake accreditation of energy auditor, ensure better quality of energy audit conducted by them. Therefore, the accreditation is done to ensure that only highly qualified and experienced persons/agencies carryout energy audit so that the report is exhaustive and of high standard. Designated consumers will be free to select any of the accredited energy auditors of take up energy audit."

5.14 To a suggestion that energy servicing companies should have the option to conduct energy audits, the Ministry mentioned that Energy Service Companies (ESCOs) are specialised companies which are capable of providing technical and financial assistance to industries/ large consumers of energy for the purpose of improving energy efficiency by retrofitting/replacement of equipment. In some cases, the equipment manufacturers themselves establish ESCO with a view to promote their business. For example, Thermax, Crompton Greaves, Asian Electronics, etc. In other cases, large manufacturing firms could employ a subsidiary to perform a function of ESCO. For example, General Electric, Enron, DCM Shriram, etc. have formed ESCO. It is possible for ESCO having the capability, to undertake the functions of energy audit. For this purpose, Bureau of Energy Efficiency shall impanel such ESCOs as an accredited auditor. The Energy Service Companies (ESCOs) and other energy auditors who fulfill the criteria for being empanelled as the accredited auditor would be given due preference. The Energy Management Centre which will be converted as BEE after the Bill is enacted is already engaged in developing a procedure and qualification/norms for accreditation of energy auditors who could be Energy Service Companies as well.

5.15 According to some organisations it is wrong to insist on getting energy audit done by BEE accredited energy auditors. It should be left to the company as how to achieve the desired goal of energy efficiency. Some companies may have their own in-house expertise which they can use in addition to external consultants when wanted. The final decision about engaging energy auditor should be the decision of the management.

5.16 The Ministry of Power in reply to the above stated as follows:—

> "Two concepts have been incorporated in Section 14 (b) (k) (n) and (h). The Central Government has been empowered by notification in consultation with BEE to direct energy intensive industries specific in the schedule to get energy audit conducted by an accredited energy auditor in such manner and at such intervals of time as may be specified by regulations. The Government has also been empowered to alter the list of energy intensive industries specified in the schedule. Similarly a designated consumer including energy intensive industries in the schedule is required to furnish to the designated agency (State Electricity Boards/State Energy Development Agency) information regarding energy consumed and also get energy audit conducted by accredited energy auditor. The purpose of conducting energy audit by an accredited energy auditor is to enable BEE to monitor the action taken based on results and recommendations made by the energy auditor. However, energy intensive industries or any designated consumer have been given the freedom to appoint energy manager who is to be given responsibility for undertaking energy conservation measures and submit report on the status of energy consumption at the end of every financial year to the designated agency.

5.17 The Committee note that under clause 14 (h), the Central Government can direct any designated consumer to get energy audit done by an accredited energy auditor. Under Clause 13 (2) (p), the Government can specify qualifications for the accredited energy auditors. In the opinion of the Committee, much ground work needs to be done before the Government can direct any designated consumer to get energy audit done. National Productivity Council, which has been assigned the role to fix norms and qualifications for accredition of energy companies/agencies, is yet to come out with its report. The Committee desire that the process of accredition should not be left at the hands of BEE only. Accordingly, the Committee recommend that the role of accreditation of auditors should be assigned to a body like Institution of Chartered Engineers, CPRI, BIS and CEA. A Committee/Board with Members drawn from these institutions and BEE should be set up to determine the norms and guidelines for accrediation of auditors. The Committee also desire that the process of accreditation should be similar and on the lines of ISO 9000/14000. Till the time accredited auditors are identified and recognised, a designated consumer should be allowed to get audit conducted by any qualified person and file the requisite returns with the designated authority.

5.18 The Committee have observed that the energy service companies are specialised organisations which are capable of providing technical and financial assistance to industries/large consumers of energy for the purpose of providing energy efficiency by retrofitting/replacement of equipments and appliances. The Committee desire that to promote energy conservations, such companies should be allowed to undertake energy audits.

CHAPTER VI

ENERGY EFFICIENCY STANDARDS FOR EQUIPMENTS AND APPLIANCES

6.1. The proposed Energy Conservation Bill envisages under Clause 14 that Bureau of Energy Efficiency would identify equipments and appliances and fix the minimum energy efficiency standards which would be mandatory in nature. While doing so, the Bureau shall coordinate with designated consumers, designated agencies and utilise existing resources in performing the functions assigned to the Bureau. It is further intended that BEE would develop mandatory standards for equipments and appliances, building codes and labelling work for the designated equipment in complete harmony and support with BIS. The Ministry of Power in a note to the Committee explained that the Central Government in consultation with BEE will lay down energy consumption standards for any equipment or appliance consuming, generating, transmitting or supplying energy. The Central Government will also enforce a scheme for compulsory affixing of labels on notified equipment and appliances to indicate the rate of energy consumption of such equipment and appliance at the stage of manufacture, import, supply, distribution and sale etc.

6.2. The Committee pointed out that mandatory standards and norms can neither easily be formulated nor easily implemented as the energy consumption depends on several factors like the technology adopted, type and make of equipment and its age etc. Norms, if any prescribed become energy standard/norms for a small group of plants in a technology groups. In such a case, the standard/norms are to be negotiated with users group individually. Keeping this in view, it was suggested that instead of mandatory energy standards, the concept of mandatory energy labelling for appliance/equipment be evolved so that consumer may make informed choice. Similarly, voluntary efficiency labelling and certification of equipments/appliances, through an accredited third party certification be adopted.

6.3. In response to above observation, the Ministry of Power mentioned as under:—

> "We agree, it is difficult to prescribe uniform energy consumption standards for industries coming under one sub-sector. The Ministry of Power had undertaken similar exercise for large energy intensive industries such as aluminium, iron & steel and pulp & paper in the past. Attempts were made to evolve energy consumption norms for 3 industry sub-sectors; namely pulp & paper, cement and foundry & forge. While evolving the norms, the first step was to set up a steering group consisting of representative of the cross section of the particular sub-sector of the industry, the concerned setroal association, industry association and other energy experts. Classification of the sub-sectoral groups were made of the units depending on factors like capacity, raw-material used, finished products manufactured, and vintage of the equipment/process etc. For example in the pulp & paper sector, out of 300 pulp & paper plants, 14 sets of similar sub-sector group of industries were identified.
>
> This was followed by data collection on the energy performance and specific energy consumption figures through a large sample survey of similar sub-sector groups through this exercise, range of norms was evolved for each sub-sector group. The findings of the group were discussed in the steering committee and after adoption by the steering committee this was disseminated to large number of industrial units in a workshop and their findings were incorporated in the final norms arrived. Although this is a complicated exercise, norms prepared in the past were adopted by the industry and some of the industrial units have achieved the targets.
>
> We agree with the suggestions that the energy consumption depend on several factors and hence proviso to Clause 14 (g) provides for prescribing different norms and standards for different designated consumers."

6.4. On the option of voluntary agreement for energy conservation, Ministry mentioned that voluntary agreements work best when there is a small number of manufacturers or a strong manufacturer's association who can deliver a given product target for the vast majority of the market. Such agreements are difficult to monitor and to achieve deep efficiency improvements that the present Bill targets.

Mandatory standards guarantee a level playing field (common set of rules) for all manufacturers, distributors and retailers and hence lower resistance to higher investment in product efficiency. The manufacturers, distributors and retailers have no choice but to ensure conformance if they wish to continue in the given market; any increased production cost should be passed on to consumers. Mandatory standards are the only means of ensuring deep efficiency improvements for a given product type. While developing protocols for equipment standards, the gradual dynamic approach of improving mandatory minimum efficiency standards would be followed.

6.5. Clause 14 (c) provides for prohibiting the manufacture, or sale or purchase of equipemnt which do not conform to energy consumption standards. According to the Ministry, prohibiting sale of notified equipment and appliances which do not conform to energy consumption standards, is with the idea of phasing out inefficient equipment and appliances from the market. This would ensure that only energy efficient equipment and appliances would be available for any one to purchase from the market.

6.6. On the question of displaying label on equipment specifying BEE standards and actual consumption for the product the Ministry mentioned that apart from fixing minimum energy efficiency standards for appliances, it is proposed to introduce energy labelling of appliances Comparative labelling would provide much needed information on energy efficiency of the appliances to the consumer. Moreover, the process of upgradation of standards is proposed to be gradual, moving from the lower end of efficiency levels to the next higher levels and so no. By prohibiting manufacture and sale of non-conforming equipments/appliances, it is proposed to eliminate inefficient equipment from the market. It is also stated by the Ministry that information about labelling programme is given through mass contact to explain, benefits of highest equipment against low efficiency equipment through life cycle costing. The Government also agreed to a suggestion that factories, buildings and products etc., be allowed to use energy friendly logo which can be developed by BEE.

6.7. The Ministry of Power agreed to another suggestion also whereunder in the initial place before standards are fixed only labelling and relative grading (1 star, 2 star and 3 star) etc. be attempted and consumer given an informed choice to make a decision.

6.8. Regarding applying standards and norms to the imported appliances/equipment. Ministry mentioned that the Clause 14 (c) implies that any equipment/appliances sold or purchased whether it is imported or locally manufactured would conform to minimum energy consumption standard after the equipment/appliance is specified under Clause 14 (b) of the Bill by the Central Government.

6.9. Regarding giving certain transitional period for various industries and equipment during which they can be permitted to use/ sell the existing/already manufactured equipment, Ministry clarified that from the date of notification of the standards sufficient lead time would be provided before the provision would become effective. In the transitional time already existing/manufactured equipment, would be permitted to use/sell etc.

Building codes

6.10. The Bill envisages that the Central Government can prescribe energy conservation building code for new buildings and can promote energy efficiency in existing buildings by designating certain large establishments/commercial complexes, for the purpose. The codes would be notified to suit local climate condition or other compelling factors. The Central Government or designated agency would notify these codes and will seek compliance of the same by owner, occupiers, contractors and architecture of the building.

6.11. It was mentioned that the term 'building' as appearing in Clause 14 (p) has not been clearly defined. As such small house/flat owners may be put to harassment, during the process of implementation of the Act.

6.12. Clarifying, Ministry of Power stated that the intention of the Government is to make applicable the provision on energy conservation buildings code to proposed new large commercial buildings. The residential buildings, small homes are not being covered for the present. The concern of the small residential building would be addressed voluntarily through architects and builders.

6.13. The Ministry mentioned in this context, that the Government welcome the above suggestion. The Government, while prescribing the Energy Conservation building code, intend to exclude the domestic houses from code. Section 41 empowers the Central Government to make rules for carrying out provisions of this Act. Clause 41 (2) (e) empowers the Central Government to make rules for implementing energy conservation building codes. While framing the rules, residential dwelling houses and small commercial complex shall be excluded from the purview of the Bill. However, BEE shall create awareness for construction of energy efficient buildings and adoption of energy efficient measures by owners of existing buildings. Reacting to another suggestion, the Ministry of Power stated that it was not proposed to make certification from energy auditor compulsory for all new building plans submitted for approval of the municipal authorities.

6.14. Asked how building code for commercial buildings and other establishments are proposed to be prescribed, Ministry stated "Under various Municipal Laws and regulations, provisions have been incorporated relating to floor space index (FSI), Floor Area Ratio (FAR), restrictions for height of building and setback etc. The local body authorities ensure adoption of these measures while approving building plans. Energy Conservation Building Codes shall be suitably integrated in the building codes. While framing rules, the Central Government and the State Governments, shall include only new large establishments and new commercial complexes for adoption of energy conservation building codes. As far as existing large establishment and commercial complexes are concerned, energy efficiency can be brought about by declaring them as designated consumers, and directing them to take up energy audit. Energy audit reports will highlight and establish economical viability of investment in energy efficiency in the establishment/commercial complex. It is expected that, thereafter, such investment will take place through performance guarantee contract mechanism by Energy Service Companies (ESCOs).

During oral evidence also, the representatives of Ministry of Power stated as under:—

> "It is not at all proposed to go after dwelling and flat owners. The Government proposes to ensure that fixing of energy norms and minimum energy consumption standard are done through a participative and consensus approach."

6.15. The Committee note that the Bureau of Energy Efficiency would identify equipment & appliances and recommend to the Central Government, the norms for processes and energy consumption standards for these equipments and appliances which consume, generate, transmit or supply energy. In the opinion of the Committee, it is almost impossible to prescribe uniform energy consumption standards for all the industries under one sub-sector. Since energy consumption depends on several factors like technology adopted, type and make of equipment and their capacities, age of equipment, etc. it is most unrealistic to have same norms or standards for energy consumption. Further mandatory standards and norms are neither easily formulated nor easily implemented. Norms, if any, prescribed will become energy standards/norms for a small group of plants in a technology group. In such a case, the standards/norms would have to be negotiated with users' groups individually. The Committee recommend that while finalising the norms for energy consumption, due consideration should be given to applicable type of technology, state of equipment, local operating conditions and quality of energy supplied. The Committee also desire that energy consumption standards for equipments and appliances should be evolved in a gradual manner and different standards be evolved for organised and small and medium industries, separately. The Committee recommend that in the initial phase, when norms are to be fixed, only labelling and relative grading should be attempted and the consumers given an informed choice to make a decision. The Bureau may consider providing different norms for different sub-sectors within a category of designated consumer. The Bureau should also prepare a scheme of 'Energy friends logo' for factories, buildings, products, etc. to encourage energy conservation.

6.16. The Committee observe that under Clause 14 (c), the Bureau of Energy Efficiency can prohibit manufacture or sale or purchase of equipment or appliances which do not conform to energy consumption standards. Regarding giving certain transitional period during which the industries be permitted to use/sell the existing equipment, etc., the Committee desire that sufficient lead time should be provided from the date of notification of the standards. It has been brought to the notice of the Committee that the imported equipment or appliances are not subjected to such restriction in the Bill. The Committee, recommend that imported equipments and appliances should be subjected to certification, labelling etc., as are stipulated for indigenously manufactured equipments or appliances. The Committee feel that testing and certification authority can seek mutual partnership with overseas laboratories and explore the possibility of the overseas testing laboratories doing the required certification on reciprocal basis to save time and cost in this regard.

6.17. The Committee further note that under Clause 2 (h), 'energy conservation building codes' have been defined and means the norms and standard of energy consumption expressed in terms of per square metre of the area wherein energy is used and includes the location of the building. Further, in terms of Clause 13 (2) (d), Bureau of Energy Efficiency, has been empowered to perform and exercise powers to take steps to prescribe guidelines for energy conservation building code. Powers have also been conferred upon State Governments to either amend energy conservation building codes or direct a designated consumer to comply with provisions of energy conservation building codes. However, word 'building' has not been defined anywhere, although the Government have clarified that large commercial complexes and establishments would be subjected to such energy conservation measures. The Committee are of the view that in the absence of precise definition of building, there may be confusion in the minds of consumers about the applicability of these provisions to the detriment. The Committee, therefore, recommend that for the sake of clarity and to allay the fears of small residential and commercial buildings owners, a definite and precise definition of 'building' should be incorporated in the Bill.

CHAPTER VII

POWER OF INSPECTING OFFICERS

7.1. Clause 17 (1) of the Bill provide for power of inspection which in as under:—

17(1) The designated agency may appoint as many inspecting officers as may be necessary for the purpose of ensuring compliance with energy consumption standards specified under clause (a) of section 14 or ensure display of particulars on lable on equipment or appliance specified under clause (b) of section 14 or for the purpose of performing such other functions as may be assigned to them.

(2) Subject to any rules made under this Act, an inspecting officer shall have power to—

(a) inspect any operation carried on or in connection with the equipment or appliance specified under clause (b) of section 14 or in respect of which energy standards under clause (a) of section 14 have been specified:

(b) enter any place of designated consumer at which the energy is used for any activity and may require any proprietor, employee, director, manager or secretary or any other person who may be attending in any manner to or helping in, carrying on any activity with the help of energy—

(i) to afford him necessary facility to inspect—

(A) any equipment or appliance as he may require and which may be available at such place;

(B) any production process to ascertain the energy consumption or norms, and standards

(ii) to make an inventory of stock of any equipment or appliance checked or verified by him;

(iii) to record the statement of any person which may be useful for, or relevant to, for efficient use of energy and its conservation under this Act.

(3) An inspecting officer may enter any place of designated consumer—

(a) where any activity with the help of energy is carried on; and

(b) where any equipment or appliance notified under clause (b) of section 14 has been kept, during the hours at which such place is open for production or conduct of business connected therewith.

(4) An inspecting officer acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, any equipment or appliance or books of account or other documents.

7.2. Federation of Indian Chamber of Commerce and Industry in their Memorandum furnished to the Committee stated that inspection based regimes are expensive, need a large staff for implementation and are ineffective both for the large process industries where measuring energy consumption and comparing it with a specified norm is difficult and for a small scale consumer where their number and spread make it difficult to provide adequate coverage and control.

7.3. CII suggested that there is no need of clause for "power of inspection". They mentioned that this clause could be substituted by suitable amendment in Companies Act—section 217 (1) (e)—{the conservation of energy, technology absorption, foreign exchange earrings and outgo, in such manner as may be prescribed}. The status of the Energy Audit could be included and one more clause under this section could be added on energy Appliance/Equipment labelling. There is no need for separate clause on "Power of inspection. It was apprehended that the powers given to the Inspectors can lead to Inspector Raj."

7.4. Clarifying the Ministry of Power Stated:—

> "The Bill provides for the State Government to designate any agency [clause 15 (d)] to undertake the enforcement function in consulation with Bureau of Energy Efficiency. The Central Government while preparing the procedure for inspection intends to include *inter-alia* that energy experts, accredited energy auditors, and other suitable persons may be designated as inspecting officer by the designated agency."

7.5. The powers given to inspecting officer for the purpose of the inspection in the Energy Conservation Bill relate to two main issues which are as under:

(i) Ensuring compliance with energy consumption standards and Display of particulars on label on notified equipment/appliance.

(ii) Ensuring compliance to norms for processes for designated consumers.

7.6. For verification of compliance of appliances/equipment to energy consumption standards on notified equipment and appliance, the Government can designate experts and accredited energy auditors as inspecting officers. They could procure such equipment from the market, based only on complaints received and get it tested in NABL accredited laboratories for compliance. If any of the notified equipment/appliance fails to meet energy consumption standards prescribed, the inspecting officer should take up with the designated agency and finally with adjudicating officer for adjudicating penalty and prohibiting manufacture, sale/purchase of non complying equipment/appliance. Similarly, the above inspecting officer could also on random sample basis, check display of such particulars in the form of labels on the format prescribed for the purpose. If any of the notified appliances does not contain the labels in the form prescribed, inspecting officer could take up with the designated agency and finally with adjudicating officer for levying penalty.

7.7. For verifying norms for process, the State Government can empower accredited energy auditors with the function of inspecting officers. Normally the norms for process as reported by the designated consumer can be accepted by the designated agency. In the event of inconsistent information and doubt on the veracity of norms, the same would need to be physically verified. This would need inspection. The state Government can empower accredited auditors as inspecting officer for the purpose. If, on verification, non compliance to norms to observed, accredited auditors in the capacity of inspecting officers may take up with the designated agency for enforcement and further actions.

7.8. The Power of inspection contained in section 17 of the Bill is of executive nature and not one of search and seizure. Moreover, the power of inspection does not empower inspecting officer to levy penalty themselves. Adequate safeguards have been provided in the Bill to ensure that inspecting officer is not either able to harass or give a threat to the designated consumer. In the process of inspection, he/she has no powers to remove or cause to be removed from the place has/she has entered in, any equipment or appliance or books of accounts or other documents. After he/she has completed the inspection he/she may be required to submit a report to the designated agency once that agency is satisfied that *prima-facie* a case for violation of the provisions mentioned in Section 26 (1) of the Bill exists, the designated agency will direct the inspecting officer to file the case before the adjudicating officer and prove its non-compliance, where the aggrieved party would also be given an equal opportunity to contest non-compliance put forth by the inspecting officer before the adjudicator. The adjudicator proposed in the Bill are of the level of Member, State Electricity Regulatory Commission or Legal Secretary in the State.

From the above, it is clear that Bill does not seek to introduce inspector raj. The work "Inspecting Officer", being related to inspection, is a legislative necessity.

7.9. The Committee apprehend that powers of inspection conferred upon 'inspecting officers' are draconian and likely to be abused and misused, rather than used objectively in spite of all the safeguards provided under the Bill. The Committee are of the opinion that the inspection based regimes are expensive, require a large bureaucracy and their effectiveness is questionable both for large process industries and for the small scale industries. Considering the difficulties in measuring and monitoring the plants with regard to energy consumption and conservation norms and standards, the Committee are in doubt of the necessity and rationality of inspections as such. Introduction of inspection is likely to be resisted by the designated consumers and industry alike. The reasons adduced by the Government for the introduction of inspecting regime lack firm conviction and work against the Government philosophy of dismantling and eliminating the controls. The Committee cannot but recommend that powers of inspection under clause 17 should be reviewed and kept to the bare minimum. The Committee also desire that the operation of this clause be held in abeyance, for a period of 5 years, till the time infrastructure and other institutional mechanism tested and tried and are put in place.

CHAPTER VIII

PENALTIES & ADJUDICATION

8.1. The proposed legislation also provides for levying penalties in monetary terms for non-compliance of certain provisions of the Bill. Penalty would be imposed under Clause 26 (i) for non-compliance with the following provisions of Clause 14 & Clause 15 of Energy Conservation Bill, 2000:—

(i) For manufacture of or sale or purchase of equipment or appliances not conforming to energy consumption standards, for which such standards have been specified by the Central Government [Sub-Clause (c), Clause 14].

(ii) For non-display of labels with requisite particulars on equipment or appliances specified by Central Government [Sub-Clause (d) Clause 14].

(iii) Failure on the part of energy intensive industries specified in the schedule and having regard to quantity of energy consumed or the norms and standards of energy consumption to get energy audit conducted by an accredited auditor in the manner and interval of time as may be specified in the schedule by Central Government [Sub-Clause (h) Clause 14].

(iv) On designated consumer for failure—

(a) to get energy audit conducted by accredited auditor [Sub-Clause (i) Clause 14].

(b) to furnish to the designated agency the information regarding energy consumed and action taken on the recommendation of accredited energy auditor [Sub-Clause (k) Clause 14].

(c) to appoint energy manager and non-submission of report on the status of energy consumption at the end of every financial year [Sub-Clause (i) Clause 14].

(d) to comply with energy consumption standards or norms (Sub-Clause (n) Clause 14).

(v) On designated consumer being owner or occupier of building or building complexes for failure to—

(a) comply with the provisions of Energy Conservation buildings codes (Sub-Clause 9r) Clause 14 & Sub-Clause (b) Clause 15);

(b) get energy audit conducted in respect of such building by an accredited auditors (Sub-Clause (s) Clause 14 and Sub-Clause (c) Clause 15); and

(c) failure to furnish to designated agency information regarding energy consumption (Sub-Clause (h) Clause 15).

However, implementation of energy audit recommendations of the accredited energy auditors would be purely on economic grounds and no penalty is envisaged for non-implementation of such measures.

8.2. As per Clause 26 (i) if any person fails to comply with the provisions of Sub-Clause (c) (d) or Sub-Clause (h) or Sub-Clause (i) or Sub-Clause (k) or Sub-Clause (l) or Sub-Clause (n) or Sub-Clause (s) of Clause 14 or Sub-Clause (b) or Sub-Clause (c) or Clause (h) of Sec. 15, he shall be liable to a penalty which shall not exceed one lakh rupees for each such failure and, in the case of continuing failure, with an additional penalty which may extend to ten thousand rupees for every day during which such failure continues.

Any amount payable under this Section, if not, paid may be recovered as if it were an arrear of land revenue.

8.3. The Committee note that the Bill (under Clause 26) provide considerable powers to the persons appointed for monitoring and enforcement. Such sweeping powers can become a tool for corruption. The harassment in often by way of threat of slapping unfounded or fictitious charges and in several cases such charges are never proved in the court of law. There are cases of harassment and loss of reputation through false complaints. It has been suggested to the Committee that to protect an honest and conscientious manufacturer, it ought to be provided in the Act that if any complaint/case is proved false, the prosecuting officer/complainant should be subject to same level of punishment as that which accused would have received had he been found guilty. Further, a minimum cost compensation may also be provided to the accused in the event of his acquittal.

Ministry in their written reply stated as follows:—

"As far as inspection for labelling and norms of consumption on an equipment is concerned, the power of inspectors is provided in the Clause 17 (1) of the Bill, the procedure for inspection shall be prescribed by the Central Government under sub-Clause (2) of Clause 17 read with sub-clause (2) (m) of Clause 41.

Inspecting officer can inspect only after receiving direction from the designated agency which upon receiving complaints can direct the inspecting officer to carry out inspection. During the inspection the inspecting officer has no powers.....

(a) to search and seize;

(b) to remove or caused to be removed from the entry any equipment or appliances or books or documents;

(c) to enter the premises when the production or conduct of business is going on and;

(d) no powers to levy penalty or fines on his own".

8.4. Commenting on the penalty provisions of the Bill, Surya Foundation mentioned that the penal provision should be delayed by 5 years to allow suitable public awareness to be built up. It can be specified that this will be operated after 5 years from passing of the Bill.

Adjudication

8.5. So far as adjudication provision is concerned Clauses 27 to 30 elaborate the provisions for power of adjudication which are as under:—

"Clause 27 contains provisions for adjudication of penalty and, *inter-alia* provides that the State Commission shall appoint any of its members as adjudicating officer for holding an enquiry in such a manner as may be prescribed by the Central Government, after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty. In a State where the State Commission has not been established, the State Government shall appoint any of its officers not below the rank equivalent to a Secretary dealing with legal affairs in that State as an adjudicating officer.

Clause 28 provides the factors that may be taken into account by the adjudicating officer in determining the quantum of penalty.

Clause 29 provides that no civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer is empowered by or under the Bill to determine and no injunction shall be granted by any court or other authority in respect of any action taken under the provisions of the Bill.

Clause 30 provides that any person aggrieved by decision or order of the adjudicating officer or the Central Government or the State Government or any other authority under this Act may file an appeal to the High Court, within sixty days from the date of communication of the decision or order of the adjudicating officer or the Central Government or the State Government or any other authority to him, on any question of fact or law arising out of such order".

8.6. Elaborating the provisions of the Bill, the Ministry mentioned that after receiving reports from the inspecting officers the designated agency, upon finding *prime-facie* case, can direct the inspecting officer, to file a case before the adjudicating officer (SERC/Law Secretary, as the case may be) and prove its non-compliance, where the aggrieved party will have full opportunity to defend his case using the services of leading experts/advocates as he deems fit.

8.7. As far as ensuring compliance to norms for process for designated consumer is concerned, the designated consumers are required to supply information/data of improving the efficiency norms, on a regular basis to the designated agency.

8.8. Asked whether the penal provision provided in the bill could be operationalised from a prospective date Ministry in their post evidence reply mentioned as follows:—

> "The provisions relating to implementation of labels shall come into force after a period of 12 months and specifications of norms of processes after 24 months from the date of enactment. The finalisation of energy consumption standards required to prohibit, manufacture or sale or purchase of equipment or appliance

which, do not conform to energy consumption standards, shall take 36 months. The enforcement of provision relating to energy audit, energy conservation norms or standard for designated consumers are proposed to be established after 36 months from the date of enactment of the Bill.

During the intervening period, testing facilities, protocol for fixing energy consumption standards, labelling, certification procedure and other infrastructure for implementing the provisions of the Bill are proposed to be strengthened."

It will be seen from the above, that a minimum of 3 years would be required to create infrastructure before the provisions relating to norms and standards could be enforced. The need for undertaking inspection would arise thereafter.

8.9. During this period, Bureau of Energy Efficiency is expected to undertake promotional aspects of energy efficiency and conservation and build infrastructure for execution of the various provisions of the Bill. During this period, the Central Government, BEE, State Government and Designated Agency would take all necessary measures to create awareness and disseminate information in regard to the enforcement of the various provisions of this Bill. The institutional mechanism and infrastructure development for implementation of the various provisions of this Act, form the date of its enactment is defined in the statement enclosed (Annexure-II).

8.10. When it was proposed that the penalty for non-compliance of the provisions ought to be in proportion to the damage caused by non-compliance of the Clauses, the Ministry, in their written reply stated that the power to impose penalty has been given to the adjudicating officer under Clause 26 of the Bill. While adjudicating the quantum of penalty under Clause 26, the adjudicating officer shall have due regard to the following factors defined in Clause 28, namely:—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default; and

(b) the repetitive nature of the default.

In view of this adequate flexibility has been provided in the provisions to ensure that ends of justice are met while adjudicating the penalty.

8.11. Asked how State Secretary-in-charge of legal affairs shall be adjudicating officer as he will be acquainted with legal matters only and consideration of technical data is beyond his capacity while deciding a case?

The Ministry in a written note stated that the Secretary-in-charge of legal affairs, while adjudicating the penalty would follow the principles of natural justice after giving the person concerned a reasonable opportunity of being heard for the purpose of imposing penalty. The adjudicating officer will hold an inquiry in such a manner that would follow the procedure as prescribed by the Central Government. The Central Government will, *inter-alia,* prescribe the procedure which would also define the circumstances that would include technical details and procedures to be accommodated in such cases.

8.12. Commenting on the penalty and adjudication Clause one expert mentioned that one of the reason for non-implementation or enforcement of various beneficial laws is the manner in which default or contravention is penalized. In all our laws the maximum level of penalties have been rightly prescribed. However, the minimum level is never prescribed. This leads to various undesirable practices in ensuring that only negligible (instead of deterrent) punishment is meted out. Further, manufacture of spurious products and their sale through distribution channel etc. continues unabated since the punishment is minimal and is only in terms of fine. The identification of persons repetitively engaged in similar crimes is difficult to establish. This applies also to the proposed legislation.

8.13 The persons who have purchased the equipments and goods on the basis of faulty/spurious declaration, certification, etc. needs to be protected. The Act should provide for return of such equipments to the seller and recovering the cost thereof by the buyer. This should include the subsequent cost such as erection, testing, etc. of the equipments by the buyer. This should also include the reimbursement of freight expenditure for returning the non-standard equipment/ apparatus.

8.14 According to another suggestion received by the Committee, an honest and conscientious manufacturer and dealer needs to be protected from harassment and loss of reputation through false and malicious complaint. If any complaint is proved false the complainant should be subject to some level of punishment as that which accused would have received if found guilty.

8.15 The Committee have noted that under Clause 27, State Regulatory Commissions have been empowered to adjudicate/appoint adjudicating officers. However, where the State Commissions have not come into being, such a power is to be exercised by Secretary, Legal Affairs of a State. Under Clause 30, High Courts have been designated as the Appellate Authority to decide and dispose off a case. Taking into consideration, the high incidence of pendency problem in High Courts and the time and money involved thereunder, the Government may explore the possibility of setting up tribunals for speedy disposal of cases. The proposed tribunal should decide a case within a fixed time frame, as may be prescribed.

8.16 In accordance with the provision of Clause 1 (3), the Energy Conservation Act, 2000 "it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as reference to the coming into force of that provision". The Committee have taken note of different time frame for different activities. It varies from 3 months to 3 years. In the opinion of the Committee, three years is a very short span and during this period, infrastructure and institutional mechanism may not be set in place. In view of the fact that the concept of energy conservation, through the instrumentality of legislation, is a novel one, a consensus and participative approach, is to guide its destiny. A minimum period of five years would be required before operation of different provisions of the Act can be given effect to. Further, although, the Committee welcome the intention to bring forward this important piece of economic legislation, the penalties suggested to achieve the desired goals in the opinion of the Committee are irrational, considering the rudimentary nature of available infrastructure. The Committee are

of the opinion that urgency in enacting the legislation is not commensurate with the status of present infrastructure and mechanism, so far developed. Moreover, the experience of Indian States, and developing countries like Thailand, where such legislation have been enacted, needs to be gone into depth. The Committee, therefore, recommend that the penal provisions of the present legislation may be held in abeyance for a period of 5 years. In the meantime, promotional activities of education and awareness drive should be taken up by the Ministry of Power, CEA, State Governments and other bodies, in the right earnest. The constraints in the implementation of the conservation scheme such as lack of knowledge, inaccessibility to energy efficient technologies, lack of trained man-power and lack of finance should be addressed to during this transitional period. Promoting energy service companies concept, innovative financing for energy efficiency development, promotion and development of testing facilities, standardisation of norms, updating of guidelines for building codes and development of audit companies, should also be addressed.

8.17. In the opinion of the Committee, the penalty prescribed for failure to observe the various provisions of the bill are stringent and too hard, considering the status of infrastructure and institutional mechanism available at present or which is likely to develop. The Committee feel that while fixing the amount of penalty the idea should be to make the industry comply with the provisions of the Act. The amount has to be such as would pinch the defaulting industry and remind it of its failure but should not be so much as may cripple it financially and drive it out of business making the medicine worse than the disease. The Committee, therefore desire that quantum of penalty may be reduced to Rs. Ten thousand, instead of Rs. One lakh, for the first failure to comply with the provision of the bill. In case of continuing and subsequent failure additional penalty of Rs. one thousand instead of Rs. Ten thousand for every day during which such failure continues, should be imposed. The Government may also consider prescribing minimum amount of penalty for various defaults. The Committee also desire that a reasonable time of more than five years after the date on which the bill is enacted as an Act should be prescribed for the operation of this Clause.

8.18 The Committee have noted that although penalty has been prescribed, for failure to comply with the various provisions of the Bill, no incentives have been proposed for promoting energy efficiencies. The Committee, therefore, recommend that a scheme of awards and rewards for efficient designated consumers and manufacture of energy efficient designated equipments and appliances, may be introduced. To promote energy savings in process and products, manufacturing and industrial units, rebate or any other concessions in electricity tariff should also be offered to consumers for achieving saving.

CHAPTER IX

THE SCHEDULE: ENERGY INTENSIVE INDUSTRIES

9.1 The Schedule of the Bill contains a list of Energy Intensive Industries.

(1) Aluminum

(2) Fertilizers

(3) Iron & Steel

(4) Cement

(5) Pulp and Paper

(6) Choier Alkali

(7) Sugar

(8) Petrochemical, Gas Crackers and Naphta Creakers

(9) Thermal Power stations, electricity transmission and distribution companies and commercial buildings or establishment specified as designated consumer.

9.2 Asked to furnish the details of guidelines for categorising an industry as "Energy Intensive Industry" the Ministry of Power mentioned that he guideline followed for inclusion of industry in the schedule is that the industry should be energy intensive and the contribution of such industrial group constitute substantial portion of commercial energy used in the country. The industrial sector consumes about 52% of final energy used in the country. The industries included in the schedule to this Bill accounts for about 70% of the energy used in industrial sector.

9.3 On the basis of Memoranda received from organisatins/experts the Committee suggested inclusion of following industries in the schedule of the Bill:

(i) Textile industries chemical industries involving electrolysis, distillation, evaporation etc.

(ii) Railways

(iii) Port Trusts

(iv) All types of power generating stations including coal based thermal, gas diesel any hydro.

(v) Transmission & Distribution networks under public and private sector

(vi) Transport sector (industries & services) Petroleum refineries.

9.4 The Ministry of Power in reply mentioned that the Bill provides for modifying the schedule from time to time and while modifying schedule industries such as textile, railways, port etc. depending on the criteria of energy intensity and the quantity of energy consumed could be included. The Ministry welcomed the suggestion of the Committee.

9.5 The Committee have observed that some of the energy intensive industries, such as Fertilizers, Cement, Iron and Steel, have been included in the schedule to the bill [Clause 2 (r)]. As per the guidelines prescribed, an industry is included in the schedule, if it is energy intensive and the contribution of such industry group constitutes substantial portion of commercial energy used in the country. The Committee note that bulk consumer of energy such as industries of textiles, chemicals (involving electrolysis, distillation, evaporation, etc.) Railway, Port Trust, Transport Sector (industries & services), Petroleum Refineries and Hydel Power Stations have not been included in the schedule. The Committee recommend that these industrial groups should also be included in the schedule, in terms of Clause 14 (f).

NEW DELHI;
November 6, 2000
Kartika 15, 1922 (*Saka*)

SONTOSH MOHAN DEV,
Chairman,
Standing Committee on Energy.

PART II

ANNEXURE I
(*Vide* Para 1.7 of Chapter I)

AS INTRODUCED IN LOK SABHA ON 24 FEB. 2000

Bill No. 21 of 2000.

THE ENERGY CONSERVATION BILL, 2000

ARRANGEMENT OF CLAUSES

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5. Meetings of Governing Council.
6. Vacancies, etc., not to invalidate proceedings of Bureau, Governing Council or Committee.
7. Removal of member from office.
8. Constitution of Advisory Committees and other committees.

9. Director-General of Bureau.

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11. Authentication of orders and decisions of Bureau.

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12. Transfer of assets, liabilities and employees of Energy Management Centre.

CHAPTER IV

POWERS AND FUNCTIONS OF BUREAU

13. Powers and functions of Bureau.

CHAPTER V

POWER OF CENTRAL GOVERNMENT TO FACILITATE AND ENFORCE EFFICIENT USE OF ENERGY AND ITS CONSERVATION

14. Power of Central Government to enforce efficient use of energy and its conservation.

CHAPTER VI

POWER OF STATE GOVERNMENT TO FACILITATE AND ENFORCE EFFICIENT USE OF ENERGY AND ITS CONSERVATION

15. Power of State Government to enforce certain provisions for efficient use of energy and its conservation.

16. Establishment of Fund by State Government.

CLAUSES

17. Power of inspection.

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29. Civil court not to have jurisdiction.

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40. Power of Central Government to issue directions.

41. Power of Central Government to make rules.

42. Power of State Government to make rules.

43. Power of Bureau to make regulations.

44. Rules and regulations to be laid before Parliament and State Legislature.

45. Application of other laws not barred.

46. Power to remove difficulty.

THE SCHEDULE.

Bill No. 21 of 2000

THE ENERGY CONSERVATION BILL, 2000

A

BILL

to provide for efficient use of energy and its conservation and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. *(1)* This Act may be called the Energy Conservation Act, 2000.

*(2)*It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "accredited energy auditor" means an auditor possessing qualifications specified under clause (*p*) of sub-section (2) of section 13;

(*b*) "Bureau" means the Bureau of Energy Efficiency established under sub-section (*1*) of section 3;

(*c*) "Chairperson" means the Chairperson of the Governing Council;

(*d*) "designated agency" means any agency designated under clause (*d*) of section 15;

(*e*) "designated consumer" means any consumer specified under clause (*e*) of section 14;

(*f*) "energy" means any form of energy derived from fossil fuels, hydro-electricity and includes electrical energy or electricity generated from renewable sources of energy or bio-mass connected to the grid;

(*g*) "energy audit" means the verification, monitoring and analysis of use of energy;

(*h*) "energy conservation building codes" means the norms and standards of energy consumption expressed in terms of per square metre of the area where in energy is used and includes the location of the building;

(*i*) "energy consumption standards" means the norms for process and energy consumption standards specified under clause (*a*) of section 14;

(*j*) "Energy Management Centre" means the Energy Management Centre set up under the Resolution of the Government of India in the erstwhile Ministry of Energy, Department of Power No. 7 (2)/87-EP (Vol. IV), dated the 5th July, 1989 and registered under the Societies Registration Act, 1860; 21 of 1860 (*k*) "energy manager" means any individual possessing the qualifications prescribed under clause (*m*) of section 14;

(*l*) "Governing Council" means the Governing Council referred to in section 4;

(*m*) "High Court" means—

(*i*) the High Court within the jurisdiction of which the aggrieved party ordinarily resides or carries on business or personally works for gain; and

(*ii*) where the Central Government is the aggrieved party, the High Court within the jurisdiction of which the respondent, or in a case where there are more than one respondent, any of the respondents ordinarily resides or carries on business or personally works for gain;

(*n*) "member" means the member of the Governing Council and includes the Chairperson;

(*o*) "notification" means a notification in the Gazette of India or, as the case may be, the Official Gazette of a State;

(*p*) "prescribed" means prescribed by rules made under this Act;

(*q*) "regulations" means regulations made by the Bureau under this Act;

(*r*) "Schedule" means the Schedule to this Act;

(*s*) "State Commission" means the State Electricity Regulatory Commission established under sub-section (*1*) of section 17 of the Electricity Regulatory Commission Act, 1998;

14 of 1998

(*t*) words and expressions used and not defined in this Act but defined in the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948 or the Electricity Regulatory Commission Act, 1998 shall have the meanings respectively assigned to them in those Acts.

9 of 1910
54 of 1948
14 of 1998

CHAPTER II

BUREAU OF ENERGY EFFICIENCY

Establishment and incorporation of Bureau of Energy Efficiency.

3. (*1*) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Bureau to be called the Bureau of Energy Efficiency.

(*2*) The Bureau shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power subject to the provisions of this act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(*3*) The head office of the Bureau shall be at Delhi.

(*4*) The Bureau may establish offices at other places in India.

Management of Bureau.

4. (*1*) The general superintendence, direction and management of the affairs of the Bureau shall vest in the Governing Council which shall consist of not less than ten, but not exceeding fourteen members to be appointed by the Central Government.

(2) The Governing Council shall consist of the following members, namely:—

(*a*) the Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Power — ***ex officio* Chairperson;**

(*b*) the Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Petroleum and Natural Gas — *ex officio* member;

(*c*) the Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Coal — *ex officio* member;

(*d*) the Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Non-conventional Energy Sources — *ex officio* member;

(*e*) the Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Consumer Affairs

(*f*) such number of persons, not exceeding eight as may be prescribed, to be appointed by the Central Government as members from amongst persons who are representing State Governments and who are in the opinion of Central Government capable of representing industry, equipment and appliance manufacturers, architects and consumers

(*g*) Director-General of the Bureau — *ex officio* member-secretary;

(*3*) The Governing Council may exercise all powers and do all acts and things which may be exercised or done by the Bureau.

(*4*) Every member referred to in clause (*f*) of sub-section (2) shall hold office for a term of three years from the date on which he enters upon his office.

(*5*) The fee and allowances to be paid to the members referred to in clause (*f*) of sub-section (2) and the manner of filling up of vacancies and the procedure to be followed in the discharge of their functions shall be such as may be prescribed.

Meetings of Governing Council.

5. (*1*) The Governing Council shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(*2*) The Chairperson or, if for any reason, he is unable to attend a meeting of the Governing Council, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(*3*) All questions which come up before any meeting of the Governing Council shall be decided by a majority vote of the members present and voting and in the event of an equality of votes, the Chairperson or in his absence, the person presiding, shall have a second or casting vote.

Vacancies, etc., not to invalidate proceedings of Bureau, Governing Council or Committee.

6. No act or proceeding of the Bureau or the Governing Council or any Committee shall be invalid merely by reason of—

(*a*) any vacancy in, or any defect in the constitution of, the Bureau or the Governing Council or the Committee; or (*b*) any defect in the appointment of a person acting as a Director-General or Secretary of the Bureau or a member of the Governing Council or the Committee; or

(*c*) any irregularity in the procedure of the Bureau or the Governing Council or the Committee not affecting the merits of the case.

Removal of member from office.

7. The Central Government shall remove a member referred to in clause (*f*) of sub-section (2) of section 4 from office if he—

(*a*) is, or at any time has been, adjudicated as insolvent;

(*b*) is of unsound mind and stands so declared by a competent court;

(*c*) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude;

(*d*) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest:

Provided that no member shall be removed, under this clause unless he has been given a reasonable opportunity of being heard in the matter.

Constitution of Advisory Committees and other Committees.

8. (*1*) Subject to any regulations made in this behalf, the Bureau may, from time to time and as and when it is considered necessary, constitute Advisory Committees for the efficient discharge of its functions.

(2) Each Advisory Committee shall consist of a Chairperson and such other members as may be determined by regulations.

(*3*) Without prejudice to the powers contained in sub-section (*1*), the Bureau may constitute, such number of technical committees of experts for the formulation of energy consumption standards or norms in respect of equipment or processes, as it considers necessary.

Director-General of Bureau.

9. (*1*) The Central Government shall, by notification, appoint—

(*a*) any person not below the rank of Joint Secretary to the Government of India as Director-General of the Bureau;

(*b*) any person not below the rank of Deputy Secretary to the Government of India as Secretary of the Bureau.

(*2*) The Director-General shall be a person of ability and standing, having adequate knowledge and experience in dealing matters relating to energy production and supply and efficient use of energy and its conservation.

(*3*) The Director-General shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty years, whichever is earlier.

(*4*) Other terms and conditions of service of the Director-General and Secretary of the Bureau shall be such as be prescribed.

(*5*) Subject to general superintendent, direction and management of the affairs by the Governing Council, the Director-General of the Bureau shall be the Chief Executive Authority of the Bureau.

(*6*) The Director-General of the Bureau shall exercise and discharge such powers and duties of the Bureau as may be determined by regulations.

Officers and employees of Bureau.

10. (*1*) The Central Government may appoint such other officers and employees in the Bureau as it considers necessary for the efficient discharge of its functions under this Act.

(*2*) The terms and conditions of service of officers and other employees of the Bureau appointed under sub-section (*1*) shall be such as may be prescribed.

Authentication of orders and decisions of Bureau.

11. All orders and decisions of the Bureau shall be authenticated by the signature of the Director-General or any other officer of the Bureau authorised by the Director-General in this behalf.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC., OF ENERGY MANAGEMENT CENTRE TO BUREAU

Transfer of assets, liabilities and employees of Energy Management Centre.

12. (*1*) On and from the date of establishment of the Bureau—

(*a*) any reference to the Energy Management Centre in any law other than this Act or in any contract or other instrument shall be deemed as a reference to the Bureau;

(*b*) all properties and assets, movable and immovable of, or belonging to, the Energy Management Centre shall vest in the Bureau;

(*c*) all the rights and liabilities of the Energy Management Centre shall be transferred to, and be the rights and liabilities of, the Bureau;

(*d*) without prejudice to the provisions of clause (*c*), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, which or for the Energy Management Centre immediately before that date, for or in connection with the purposes of the said Centre shall be deemed to have been incurred, entered into, or engaged to be done by, with or for, the Bureau;

(*e*) all sums of money due to the Energy Management Centre immediately before that date shall be deemed to be due to the Bureau;

(*f*) all suits and other legal proceedings instituted or which could have been instituted by or against the Energy Management Centre immediately before that date may be continued or may be instituted by or against the Bureau; and

(*g*) every employee holding any office under the Energy Management Centre immediately before that date shall hold his office in the Bureau by the same tenure and upon the same terms and conditions or service as respects remuneration, leave, provident fund, retirement or other terminal benefits as he would have held such office if the Bureau had not been established and shall continue to do so as an employee of the Bureau or until the expiry of six months from that date if such employee opts not to be the employee of the Bureau within such period.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the absorption of any employee by the Bureau in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court, tribunal or other authority. 14 of 1947

CHAPTER IV

POWERS AND FUNCTIONS OF BUREAU

Powers and functions of Bureau.

13. (*1*) The Bureau shall, effectively co-ordinate with designated consumers, designated agencies and other agencies, recognise and utilise the existing resources and infrastructure, in performing the functions assigned to it by or under this Act.

(2) The Bureau may perform such functions and exercise such powers as may be assigned to it by or under this act and in particular, such functions and powers include the function and power to—

(*a*) recommend to the Central Government the norms for processes and energy consumption standards required to be notified under clause (*a*) of section 14;

(*b*) recommend to the Central Government the particulars required to be displayed on label on equipment or on appliances and manner of their display under clause (*d*) of section 14;

(*c*) recommend to the Central Government for notifying any user or class of users of energy as a designated consumer under clause (*e*) of section 14, having regard to intensity or quantity of energy used by it;

(*d*) take suitable steps to prescribe guidelines for energy conservation building codes under clause (*p*) of section 14;

(*e*) take all measures necessary to create awareness and disseminate information for efficient use of energy and its conservation;

(*f*) arrange and organise training of personnels and specialists in the techniques for efficient use of energy and its conservation;

(*g*) strengthen consultancy services in the field of energy conservation;

(*h*) promote research and development in the field of energy conservation;

(*i*) develop testing and certification procedure and promote testing facilities for certification and testing for energy consumption of equipment and appliances;

(*j*) formulate and facilitate implementation of pilot projects and demonstration projects for promotion of efficient use of energy and its conservation;

(*k*) promote use of energy efficient processes, equipment, devices and systems;

(*l*) promote innovative financing of energy efficiency projects;

(*m*) give financial assistance to institutions for promoting efficient use of energy and its conservation;

(*n*) levy fee, as may be determined by regulations, for services provided for promoting efficient use of energy and its conservation;

(*o*) maintain a list of accredited energy auditors as may be specified by regulations;

(*p*) specify, by regulations, qualifications for the accredited energy auditors;

(*q*) specify, by regulations, the manner and intervals of time in which the energy audit shall be conducted;

(*r*) specify, by regulations, certification procedures for energy managers to be appointed by designated consumers;

(*s*) prepare educational curriculum on efficient use of energy and its conservation for educational institutions, boards, universities or autonomous bodies and coordinate with them or inclusion of such curriculum in their syllabus;

(*t*) implement international cooperation programmes relating to efficient use of energy and its conservation as may be assigned to it by the Central Government;

(*u*) perform such other functions as may be prescribed.

CHAPTER V

POWER OF CENTRAL GOVERNMENT TO FACILITATE AND ENFORCE EFFICIENT USE OF ENERGY AND ITS CONSERVATION

Power of Central Government to enfore efficent use of energy and its conservation.

14. The Central Government may, by notification, in consultation with the Bureau,—

(*a*) specify the norms for processes and energy consumption standards for any equipment, appliance which consumes, generates, transmits or supplies energy;

(*b*) specify equipment or appliance or class of equipments or appliances, as the case any be, for the purposes of this Act;

(*c*) prohibit manufacture or sale or purchase of equipment or appliance specified under clause (*b*), unless such equipment or appliance conforms to energy consumption standards;

(*d*) direct display of such particulars on label on equipment or on appliance specified under clause (*b*) and in such manner as may be specified by regulations;

(*e*) specify, having regard to the intensity or quantity of energy consumed, any user or class of users of energy as a designated consumer for the purposes of this act;

(*f*) alter the list of Energy Intensive Industries specified in the Schedule;

(*g*) establish and prescribe such energy consumption norms or standards for designated consumers as it may consider necessary;

Provided that the Central Government may prescribe different norms and standards for different designated consumers having regard to such factors as may be prescribed;

(*h*) direct, having regard to quantity of energy consumed or the norms and standards of energy consumption specified under clause (*a*) the energy intensive industries specified in the Schedule to get energy audit conducted by an accredited energy auditor in such manner and intervals of time as may be specified by regulations;

(*i*) direct, if considered necessary for efficient use of energy and its conservation, any designated consumer to get energy audit conducted by an accredited energy auditor;

(*j*) specify the matters to be included for the purposes of inspection under sub-section (2) of seciton17;

(*k*) direct any designated consumer to furnish to the designated agency, in such form and manner and within súch period, as may be prescribed, the information with regard to the energy consumed and action taken on the recommendation of the accredited energy auditor;

(*l*) direct any designated consumer to appoint energy manager in charge of activities for efficient use of energy and its conservation and submit a report, in the form and manner as may be prescribed, on the status of energy consumption at the end of every financial year to the designated agency;

(*m*) prescribe minimum qualification for energy managers to be appointed under clause (*l*);

(*n*) direct every designated consumer to comply with energy consumption standards or norms;

(*o*) direct any designated consumer to prepare a scheme for efficient use of energy and its conservation and implement such scheme in such form and manner as may be prescribed;

(*p*) prescribe energy conservation building codes for efficient use of energy and its conservation in the building or building complex;

(*q*) amend the energy conservation building codes to suit the regional and local climatic conditions;

(*r*) direct every owner or occupier of the building or building complex, being a designated consumer to comply with the provisions of energy conservation building codes for efficient use of energy and its conservation;

(*s*) direct, any designated consumer referred to in clause (*r*), if considered necessary, for efficient use of energy and its conservation in his building to get energy audit conducted in respect of such building by an accredited energy auditor in such manner and intervals of time as may be specified by regulations;

(*t*) take all measures necessary to create awareness and disseminate information for efficient use of energy and its conservation;

(*u*) arrange and organise training of personnels and specialists in the techniques for efficient use of energy and its conservation;

(*v*) take steps to encourage preferential treatment for use of energy efficient equipment or appliances;

Provided that the powers under clauses (*p*) to (*s*) shall be exercised in consultation with the concerned State.

CHAPTER VI

POWER OF STATE GOVERNMENT TO FACILITATE AND ENFORCE EFFICIENT USE OF ENERGY AND ITS CONSERVATION

Power of State Government to enfore certain provisions for efficient use of energy and its conservation.

15. The State Government may, by notification, in consultation with the Bureau—

(*a*) amend the energy conservation building codes to suit the regional and local climatic conditions and may, by rules made by it, specify and notify energy conservation building codes with respect to use of energy in the buildings;

(*b*) direct every owner or occupier of a building or building complex being a designated consumer to comply with the provisions of the energy conservation building codes;

(*c*) direct, if considered necessary for efficient use of energy and its conservation, any designated consumers referred to in clause (*b*) to get energy audit conducted by an accredited energy auditor in such manner and intervals of time as may be specified by regulations;

(*d*) designate any agency as designated agency to coordinate, regulate and enforce provisions of this Act within the State;

(*e*) take all measures necessary to create awareness and disseminate information for efficient use of energy and its conservation;

(*f*) arrange and organise training of personnels and specialists in the techniques for efficient use of energy and its conservation;

(*g*) take steps to encourage preferential treatment for use of energy efficient equipment or appliances;

(*h*) direct, any designated consumer to furnish to the designated agency, in such form and manner and within such period as may be specified by rules made by it, information with regard to the energy consumed by such consumer;

(*i*) specify matters relating to inspection by inspecting officer under sub-section (2) of section 17.

Establishment of fund by State Government.

16. (*1*) The State Government shall constitute a Fund to be called the State Energy Conservation Fund for the purposes of promotion of efficient use of energy and its conservation within the State.

(2) To the Fund shall be credited all grants and loans that may be made by the State Government or, Central Government or any other organisation or individual for the purpose of this Act.

(3) The Fund shall be applied for meeting the expenses incurred for implementing the provisions of this Act.

(4) The Fund created under sub-section (*1*) shall be administered by such persons or any authority and in such manner as may be specified in the rules made by the State Government.

Power of inspection.

17. (*1*) The designated agency may appoint as many inspecting offices as may be necessary for the purpose of ensuring compliance with energy consumption standards specified under clause (*a*) of section 14 or ensure display of particulars on lable on equipment or appliance specified under clause (*b*) of section 14 or for the purpose of performing such other functions as may be assigned to them.

(2) Subject to any rules made under this Act, an inspecting officer shall have power to—

(*a*) inspect any operation carried on or in connection with the equipment or appliance specified under clause (*b*) of section 14 or in respect of which energy standards under clause (*a*) of section 14 have been specified;

(*b*) enter any place of designated consumer at which the energy is used for any activity and may require any proprietor, employee, director, manager or secretary or any other person who may be attending in any manner to or helping in, carrying on any activity with the help of energy—

(*i*) to afford him necessary facility to inspect—

(*A*) any equipment or appliance as he may require and which may be available at such place;

(*B*) any production process to ascertain the energy consumption or norms;

(*ii*) to make an inventory of stock of any equipment or appliances checked or verified by him;

(*iii*) to record the statement of any person which may be useful for, or relevant to, for efficient use of energy and its conservation under this Act.

(*3*) An inspecting officer may enter any place of designated consumer—

(*a*) where any activity with the help of energy is carried on; and

(*b*) where any equipment or appliance notified under clause (*b*) of section 14 has been kept,

during the hours at which such place is open for production or conduct of business connected therewith.

(*4*) An inspecting officer acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, any equipment or appliance or books of account or other documents.

Power of Central Government or State Government to issue directions.

18. The Central Government or the State Government may, in the exercise of its powers and performance of its functions under this Act and for efficient use of energy and its conservation, issue such directions in writing as it deems fit for the purposes of this Act to

any person, officer, authority or any designated consumer and such person, officer or authority or any designated consumer shall be bound to comply with such directions.

Explanation.— For the avoidance of doubts, it is here by declared that the power to issue directions under this section includes the power to direct—

(*a*) regulation of norms for process and energy consumption standards in any industry or building or building complex; or

(*b*) regulation of the energy consumption standards for equipment and appliances.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT OF BUREAU

Grants and loans by Central Government.

19. The Central Government may, after the due appropriation made by Parliament by law in this behalf, make to the Bureau or to the State Governments grants and loans of such sums of money as the Central Government may consider necessary.

Establishment of Fund by Central Government.

20. (*1*) There shall be constituted a Fund to be called as the Central Energy Conservation Fund and there shall be credited thereto—

(*a*) any grants and loans made to the Bureau by the Central Government under section 19;

(*b*) all fees received by the Bureau under this Act;

(*c*) all sums received by the Bureau from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(*a*) the salary, allowances and other remurneration of Director-General, Secretary, officers and other employees of the Bureau;

(*b*) expenses of the Bureau in the discharge of its functions under section 13;

(*c*) fee and allowances to be paid to the members of the Governing Council under sub-section (5) of section 4;

(*d*) expenses on objects and for purposes authorised by this Act.

Borrowing powers of Bureau.

21. (*1*) The Bureau may, with the consent of the Central Government or in accordance with the terms of any general or special authority given to it by the Central Government, borrow money from any source as it may deem fit for discharging all or any of its functions under this Act.

(2) The Central Government may guarantee, in such manner as it thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans borrowed by the Bureau under sub-section (*1*).

Budget.

22. The Bureau shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Bureau and forward the same to the Central Government.

Annual report.

23. The Bureau shall prepare, in such form and at such time in each financial year as may be prescribed its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government.

Annual report to be laid before Parliament.

24. The Central Government shall cause the annual report referred to in section 23 to be laid, as soon as may be after it is received, before each House of Parliament.

Accounts and audit.

25. (*1*) The Bureau shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the Bureau shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Bureau to the Comptroller and Auditor-General.

(*3*) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Bureau shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts, and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Bureau.

(*4*) The accounts of the Bureau as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

CHAPTER VIII

PENALTIES AND ADJUDICATION

Penalty.

26. (*1*) If any person fails to comply with the provisions of clause (*c*) or clause (*d*) or clause (*h*) or clause (*i*) or clause (*k*) or clause (*l*) or clause (*n*) or clause (*r*) or clause (*s*) of section 14 or clause (*b*) or clause (*c*) or clause (*h*) of section 15, he shall be liable to a penalty which shall not exceed one lakh rupees for each such failure and, in the case of continuing failure, with an additional penalty which may extend to ten thousand rupees for every day during which such failure continues.

(*2*) Any amount payable under this section, if not paid, may be recovered as if it were an arrear of land revenue.

Power to adjudicate.

27. (*1*) For the purpose of adjudging under section 26, the State Commission shall appoint any of its members to be an adjudicating officer for holding an inquiry in such manner as may be prescribed by the Central Government, after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(*2*) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry, and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the clauses of the sections specified in section 26, he may impose such penalty as he thinks fit in accordance with the provisions of any those clauses of the sections:

Provided that where a State Commission has not been established in a State, the Government of that State shall appoint any of its officer not below the rank equivalent to a Secretary dealing with legal affairs in that State to be an adjudicating officer for the purposes of this section and such officer shall cease to be an adjudicating officer immediately on the appointment of an adjudicating officer by the State Commission on its establishment in that State:

Provided further that where an adjudicating officer appointed by a State Government ceased to be an adjudicating officer, he shall transfer to the adjudicating officer appointed by the State Commission all matters being adjudicated by him and thereafter the adjudicating officer appointed by the State Commission shall adjudicate the penalties on such matters.

Factors to be taken into account by adjudicating officer.

28. While adjudicating the quantum of penalty under section 26, the adjudicating officer shall have due regard to the following factors, namely:—

(*a*) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(*b*) the repetitive nature of the default.

Civil court not to have jurisdiction.

29. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Appeal to High Court.

30. Any person, aggrieved by any decision or order of the adjudicating officer or the Central Government or the State Government or any other authority under this Act, may, file an appeal to the High Court within sixty days from the date of communication of the decision or order of the adjudicating officer or the Central Government or the State Government or any other authority under this Act, to him, on any question of fact or law arising out of such order.

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period of not exceeding sixty days.

CHAPTER IX

MISCELLANEOUS

Power of Central Government to issue directions to Bureau.

31. (*1*) Without prejudice to the foregoing provisions of this Act, the Bureau shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.

Provided that the Bureau shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

Power of Central Government to supersede Bureau.

32. (*1*) If at any time the Central Government is of opinion—

(*a*) that an account of grave emergency, the Bureau is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or (*b*) that the Bureau has persistently made default in complying with any direction issued by the Central Government under this Act or in discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Bureau had deteriorated or the administration of the Bureau had deteriorated; or

(*c*) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification, supersede the Bureau for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (*1*) superseding the Bureau,—

(*a*) all the members referred to in clause (*f*) of sub-section (2) of section 4 shall, as from the date of suppression, vacate their offices as such;

(*b*) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Bureau, shall until the Bureau is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(*c*) all property owned or controlled by the Bureau shall, until the Bureau is reconstituted under-section (3), vest in the Central Government.

(3) On the expiration of the period of suppression specified in the notification issued under sub-section (*1*), the Central Government may reconstitute the Bureau by a fresh appointment and in such case any person or persons who vacated their offices under clause (*a*) of sub-section (2), shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time, before the expiration of the period of suppression, take action under this sub-section.

(*4*) The Central Government shall cause a notification issued under sub-section (*1*) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Default by companies.

33. (*1*) Where a company makes a default in complying with the provisions of clause (*c*) or clause (*d*) or clause (*h*) or clause (*i*) or clause (*k*) or clause (*l*) or clause (*n*) or clause (*r*) or clause (*s*) of section 14 or clause (*b*) or clause (*c*) or clause (*h*) of section 15, every person who at the time of such contravention was incharge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to have acted in contravention of the said provisions and shall be liable to be proceeded against and imposed penalty under section 26 accordingly:

Provided that nothing contained in this sub-section shall render any such person liable for penalty provided in this Act if he proves that the contravention of the aforesaid provisions was committed without his knowledge or that he exercised all due diligence to prevent the contravention of the aforesaid provision.

(2) Notwithstanding anything contained in sub-section (*1*), where any contravention of the provisions of clause (*c*) or clause (*d*) or clause (*h*) or clause (*i*) or clause (*k*) or clause (*l*) or clause (*n*) or clause (*r*) or clause (*s*) of section 14 or clause (*b*) or clause (*c*) or clause (*h*) of section 15 has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to have contravened the said provisions and shall be liable to be proceeded for imposition of penalty accordingly.

Explanation.— For the purposes of this section, "company" means a body corporate and includes a firm or other association of individuals.

Exemption from tax on income.

34. Notwithstanding anything contained in the Income-Tax Act, 1961 or any other enactment for the time being in force relating to tax on income, profits or gains— 43 of 1961

(*a*) the Bureau;

(*b*) the existing Energy Management Centre from the date of its constitution to the date of establishment of the Bureau,

shall not be liable to pay any income-tax or any tax in respect of their income, profits or gains derived.

Protection of action taken in good faith.

35. No suit, prosecution or other legal proceeding shall lie against the Central Government or Director-General or Secretary or State Government or any officer of those Governments or State Commission or its members or any member or officer or other employee of the Bureau for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

36. The Bureau may, be general or special order in writing, delegate to any member, member of the committee, officer of the Bureau or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 43) as it may deem necessary.

Delegation.

37. Every designated consumer or manufacturer of equipment or appliance specified under clause (*b*) of section 14 shall supply the Bureau with such information, and with such samples of any material or substance used in relation to any equipment or appliance as the Bureau may require.

Power to obtain information.

38. If the Central Government or the State Government is of the opinion that it is necessary or expedient so to do in the public interest, it may, by notification and subject to such conditions as may be specified in the notification, exempt any designated consumer or class of designated consumers from application of all or any of the provisions of this Act.

Power to exempt.

39. The members of the State Commission or the members, Director-General, Secretary, officers and other employees of the Bureau shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860

Members of State Commission, Director-General, Secretary, members, officers and employees to be public servants.

40. The Central Government may give directions to a State Government or the Bureau as to carrying out into execution of this Act in the State.

Power of Central Government to issue directions.

Power of Cental Government to make rules.

41. (*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) such number of persons to be appointed as members by the Central Government under clause (*f*) of sub-section (2) of section 4;

(*b*) the fee and allowances to be paid to the members under sub-section (5) of section 4;

(*c*) other terms and conditions of service of Director-General and Secretary of the Bureau under sub-section (4) of section 9;

(*d*) the terms and conditions of service of officers and other employees of the Bureau under sub-section (2) of section 10;

(*e*) performing such other functions by the Bureau, as may be prescribed, under clause (*u*) of sub-section (2) of section 13;

(*f*) the energy consumption norms or standards for designated consumers under clause (*g*) of section 14;

(*g*) prescribing the different norms and standards for different designated consumers under the proviso to clause (*g*) of section 14;

(*h*) the form and manner and the time within which information with regard to energy consumed and the action taken on the recommendations of the accredited energy auditor be furnished under clause (*k*) of section 14;

(*i*) the form and manner in which the status of energy consumption be submitted under clause (*i*) of section 14;

(*j*) the minimum qualifications for energy managers under (*m*) of section 14;

(*k*) the form and manner for preparation of scheme and its implementation under clause (*o*) of section 14;

(*l*) the energy conservation building codes under clause (*p*) of section 14;

(*m*) the matters relating to inspection under sub-section (2) of section 17;

(*n*) the form in which, and the time at which, the Bureau shall prepare its budget under section 22;

(*o*) the form in which, and the time at which, the Bureau shall prepare its annual report under section 23;

(*p*) the form in which the accounts of the Bureau shall be maintained under section 25;

(*q*) the manner of holding inquiry under sub-section (*1*) of section 27;

(*r*) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, or may be made, by rules.

Power of State Government to make rules.

42. (*1*) The State Government may, by notification, make rules for carrying out the provisions of this Act and not inconsistent with the rules, if any, made by the Central Government.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) energy conservation building codes under clause (*a*) of section 15;

(*b*) the form, the manner and the period within which information with regard to energy consumption shall be furnished under clause (*h*) of section 15;

(*c*) the person or any authority who shall administer the Fund and the manner in which the Fund shall be administered under sub-section (*4*) of section 16;

(*d*) the matters relating to inspection under sub-section (2) of section 17;

(*e*) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, or may be made, by rules.

Power of Bureau to make regulations.

43. (*1*) The Bureau may, with the previous approval of the Central Government, and subject to the condition of previous publication, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all any of the following matters, namely:—

(*a*) the times and places of the meetings of the Governing Council and the procedure to be followed at such meeting sunder sub-section (*1*) of section 5;

(*b*) the members of advisory committees constituted under sub-section (2) of section 8;

(*c*) the powers and duties that may be exercised and discharged by the Director-General of the Bureau under sub-section (6) of section 9;

(*d*) the levy of fee for services provided for promoting efficient use of energy and its conservation under clause (*n*) of sub-section (2) of section 13;

(*e*) the list of accredited energy auditors under clause (*o*) of sub-section (2) of section 13;

(*f*) the qualifications for accredited energy auditors under clause (*p*) of sub-section (2) of section 13;

(*g*) the manner and the intervals of time in which the energy audit shall be conducted under clause (*q*) of sub-section (2) of section 13;

(*h*) certification procedure for energy managers under clause (*r*) of sub-section (2) of section 13;

(*i*) particulars required to be displayed on lable and the manner of their display under clause (*d*) of section 14;

(*j*) the manner and the intervals of time for conduct of energy audit under clause (*h*) or clause (*s*) of section 14;

(*k*) the manner and the intervals of time for conducting energy audit by an accredited energy auditor under clause (*c*) of section 15;

(*l*) any other matter which is required to be, or may be, specified.

Rules and regulations to be laid before Parliament and State Legislature.

44. (*1*) Every rule made by the Central Government and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in-session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything pervasively done under that rule or regulation.

(2) Every rule made by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Application of other laws not barred.

45. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

46. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty.

Power to remove difficulty.

Provided that no such order shall be made under this section after the expiry of two years from the date of the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE SCHEDULE

[*See* section 2 (*r*)]

LIST OF ENERGY INTENSIVE INDUSTRIES

1. Aluminium;
2. Fertilizers;
3. Iron and Steel;
4. Cement;
5. Pulp and paper;
6. Chlor Alkali;
7. Sugar;
8. Petrochemical, Gas Crackers and Naphtha Crackers;
9. Thermal power stations, electricity transmission and distribution companies and commercial buildings or establishments specified as designated consumer.

STATEMENT OF OBJECTS AND REASONS

Promoting efficient use of energy and its conservation has been engaging the attention of the Government of India for quite some time. The increasing preference for commercial energy has led to considerable spurt in the demand for electricity and fossil fuels. There is enormous potential for reducing energy consumption by adopting energy efficiency measures in various sectors of our economy. Energy efficiency will not only reduce the need to create new capacity requiring mobilisation of huge resources but will also result in substantial environmental benefits in terms of reduced greenhouse gas emissions. Therefore, there is need for certain statutory measures which would promote conservation of energy and facilitate its efficient use in various sectors of our economy.

2. At present, the Energy Management Centre being a society registered under the Societies Registration Act, 1860 is making efforts for efficient use of energy and its conservation. A need has been felt to provide for statutory measures to establish statutory authority by the name of Bureau of Energy Efficiency (Bureau) and confer upon the Central Government, State Government and the Bureau certain powers to enforce the said measures for efficient use of energy and its conservation.

3. It is proposed to introduce a comprehensive legislation for efficient use of energy and its conservation, *inter alia*, to provide for the following matters, namely:—

(*a*) establish the Bureau by merging existing Energy Management Centre to effectively co-ordinate with designated consumers and agencies for performing such functions and exercise such powers which may be necessary for efficient use of energy and its conservation. Such functions and powers, *inter alia*, include the function and power to—

(*i*) recommend to the Central Government the norms for process and energy consumption standards for equipments and appliances;

(*ii*) recommend to the Central Government for specifying any user or class of users of energy as a designated consumer having regard to intensity or quantity of energy used by it;

(*iii*) recommend to the Central Government the particulars required to be displayed on labels on the equipment or appliances and the manner of their display;

(*iv*) take suitable steps to prescribe guidelines for energy conservation building codes;

(*v*) take necessary measures to create awareness and disseminate information for efficient use of energy and its conservation;

(*vi*) develop testing and certification procedure and promote testing facilities certification and testing for energy consumption of for equipment and appliances;

(*vii*) promote innovative financing of energy efficiency projects;

(*viii*) specify qualifications for the accredited energy auditors, the manner and interval of time in which the energy audit shall be conducted by such auditors;

(*ix*) specify certification procedures for energy managers to be appointed by designated consumers;

(*x*) prepare educational curriculum on efficient use of energy and its conservation for educational institutions, boards, universities or autonomous bodies and coordinate with them or inclusion of such curriculum in their syllabus;

(*b*) confer power upon the Central Government, *inter alia*, to—

(*i*) specify the norms for process and energy consumption standards for any equipment or appliance which consumers, generates, transmits or supplies energy;

(*ii*) specify equipment or appliance or class of equipment or appliances for the purposes of the proposed legislation;

(*iii*) prohibit manufacturer of sale or purchase of equipment or appliance which do not conform to the prescribed energy consumption standards;

(*iv*) direct display of such particular on labels on equipment or appliances;

(*v*) specify, having regard to the intensity or quantity of the energy consumed by any user or class of users of energy as designated consumers for the purposes of the legislation;

(*vi*) prescribe energy conservation building codes for efficient use of energy and its conservation in the building or building complex;

(*vii*) direct any designated consumer to get energy audit conducted by an accredited energy auditor;

(*viii*) direct designated consumer to appoint energy manager in charge of activities for conservation of energy;

(*ix*) prescribe minimum qualifications for appointment of energy manager;

(*x*) direct any designated consumer to furnish information with regard to energy consumed and action taken on the recommendation of the accredited energy auditor;

(*xi*) direct any designated consumer to prepare a scheme for efficient use of energy and its conservation and implement such scheme as may be prescribed;

(*xii*) take steps to encourage preferential treatment for use of energy efficient equipment or appliances;

(*c*) confer power upon the State Governments for enforcing the provisions of the proposed legislation which, *inter alia*, include the power to—

(*i*) amend the energy conservation building codes to suit the regional and local climatic conditions;

(*ii*) direct every owner or occupier of a building or building complex being a designated consumer to comply with the energy conservation building codes;

(*iii*) direct any designated building consumer to get energy audit conducted by an accredited energy auditor;

(*iv*) designate any agency as designated agency to coordinate, regulate and enforce the provisions of the proposed legislation within the State;

(*v*) take necessary measures to create awareness and disseminate information for efficient use of energy and its conservation;

(*d*) establish a Fund called the Energy Conservation Fund separately by the Central Government and the State Governments;

(*e*) impose penalties in case of contravention of the provisions of the proposed legislation; and

(*f*) prescribe the procedure for adjudication of the penalties and appeal to the High Court;

4. The proposed legislation is enabling in nature and the provisions would be effective from a future date after the infrastructure and institutional mechanism are set in place.

5. The Bill seeks to achieve the above objects.

New Delhi; P.R. KUMARAMANGALAM
The 9th February, 2000.

Notes on clauses

Clause 2 defines various expressions occurring in the Bill. This clause, *inter alia*, provides that the words and expressions used and not defined in this Bill but defined in the Indian Electricity Act, 1910, the Electricity (Supply) Act, 1948 or the Electricity Regulatory Commissions Act, 1998, shall have the meanings respectively assigned to them in those Acts.

Clause 3 provides for the establishment and incorporation of the Bureau of Energy Efficiency (Bureau). The Bureau shall be a body corporate by the name aforesaid having perpetual succession and a common seal. It can sue or be sued. The head office of the Bureau shall be at Delhi. The Bureau can establish offices at other places in India also.

Clause 4 provides that the management of the Bureau shall vest in the Governing Council. The Governing Council shall have general superintendence, direction and management of the affairs of the Bureau. It shall consist of not less than ten but not more than fourteen members to be appointed by the Central Government. The Secretary in the Ministry or Department dealing with Power shall be the *ex officio* Chairperson of the Governing Council. The Secretaries representing Ministries or Departments of Petroleum and Natural Gas, Coal, Non-conventional Energy Sources and Consumer Affairs shall be the *ex officio* members of the Governing Council. In addition, the Central Government have the powers to appoint eight other members in the Governing Council representing the State Governments, industry, equipment and appliance manufacturers, architects and consumers. These eight members appointed by the Central Government shall hold office for a period of three years from the date on which they enter upon the office. The Director-General of the Bureau shall be the *ex officio* member-secretary of the Governing Council. The Governing Council may exercise all powers and do all acts and things which may be exercised or done by the Bureau.

Clause 5 provides that the Governing Council shall meet at such times and places and shall observe such rules of procedure in regard to transactions of business as may be provided by regulations.

Clause 6 provides that no act or proceeding of the Bureau, Governing Council or any Committee shall be invalid by reason of any vacancy in, or any defect in the constitution of, the Bureau, Governing Council or any committee or any defect in the appointment of the Director-General or Secretary or member or member of any committee or any irregularity in the procedure of the Bureau not affecting the merits of the case.

Clause 7 seeks to provide for the circumstances under which the Central Government can remove a member who has been appointed by it to represent various interest groups namely, State Governments Industry, equipment and appliance manufacturer, architects and consumers.

Clause 8 provides that the Bureau, when it is considered necessary, can constitute various advisory committees to effectively discharge various functions assigned to it. Such committees shall consist of a Chairperson and such other members as may be determined by regulations. It also provides that Bureau may constitute technical committees of experts for formulation of energy consumption standards for equipment and appliances or norms for processes, as it considers necessary.

Clause 9 provides for the appointment of the Director-General and Secretary of the Bureau and their eligibility and the other terms and conditions for their appointment. The Director-General shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty years, whichever is earlier. The Director-General shall be the Chief Executive Officer subject to general superintendance, direction and management of the Governing Council. The powers and duties of the Director-General shall be determined by regulations.

Clause 10 provides for the appointment of officers and other employees of the Bureau and their terms and conditions of services.

Clause 11 provides for authentication of orders and decisions of the Bureau.

Clause 12 contains provisions for transfer of the assets, liabilities and employees of the Energy Management Centre to the Bureau on and from the date of establishment of the Bureau and provides for certain matters related to such transfer.

Clause 13 provides for powers and functions of the Bureau. The Bureau shall coordinate with designated consumers, designated agencies and other agencies and utilize existing resources and infrastructure in performing the functions assigned to the Bureau. The functions and powers of the Bureau, *inter alia,* include functions and power to recommend to the Central Government the norms for process and energy consumption standards for any equipment or appliance; recommend to the Central Government for notifying any user or class of users of energy as designated consumers; particulars for labelling on equipment or appliance; prescribe guidelines for energy conservation building codes; prescribe qualifications for appointment of energy managers and engagement of accredited energy auditors by the designated consumers and other functions involving promotion of efficient use of energy and its conservation and for collection of fees for the services provided by the Bureau, etc.

Clause 14 confers powers upon the Central Government to enforce certain provisions for efficient use of energy and its conservation. This clause, *inter alia,* provides that the Central Government, in consultation with the Bureau, *inter alia,* may specify the norms for process and energy consumption standards for any equipment or appliance which consumes, generates, transmit or supplies energy; specify equipment or appliance for the purposes of the Bill; prohibit manufacture or sale or purchase of certain equipment or appliance unless it conforms to energy consumption standards; direct display of certain particulars on label on equipment or appliances; specify a user or class of users of energy as a designated consumer; diect designated consumer to comply with energy consumption standards or norms; direct energy audit to be conducted by energy intensive industries specified in the Schedule to the Bill or by the designated consumer; direct designated consumers to prepare scheme in respect of conservation of energy and implement such scheme; prescribe energy conservation building codes for efficient use and its conservation and direct any designated consumer to get energy audit conducted in respect of their buildings, etc. The powers in relation to energy conservation building codes shall be exercised in consultation with the concerned State Governments.

Clause 15 confers powers upon the State Governments to enforce certain provisions of the Bill for efficient use of energy and its conservation. This clause , *inter alia,* provides that the State Government, in consultation with the Bureau, may amend the energy conservation building codes, notify energy conservation building codes with respect to use of energy in certain buildings or building complexes being a designated consumer and direct them to get energy audit conducted by an accredited energy auditor; designate any agency to coordinate, regulate and enforce provision of this Bill within the State.

Clause 16 contains provisions for the establishment and operation of the State Energy Conservation Fund by the State Government for the purpose of promotion of efficient use of energy and its conservation within the State. This clause, *inter alia* provides that there shall be credited all grants and loans that may be made by the State Government, Central Government or any other organisations or individual to the Fund and it shall be applied for meeting the expenses incurred for implementing the provisions of this Act. The Fund shall be administered by such persons or any authority as may be specified by the rules made by the State Government.

Clause 17 contains provisions relating to powers of inspection and, *inter alia,* provides for power of inspection of equipment or appliances for the purpose of compliance of certain provisions specified in that clause. The power of appointment of inspecting officers shall vest with the designated agency. The inspecting officers shall have no power to remove any equipment or appliance or books of account or other documents from the place where he has entered.

Clause 18 provides that the Central Government or the State Government shall have power to issue directions in writing for the purposes of the proposed legislation to any person, officer or any authority for efficient use of energy and its conservations and such person, officer or authority shall be bound to comply with such directions.

Clause 19 provides that the Central Government, after due appropriation made by Parliament by law, make to the Bureau grants and loans.

Clause 20 contains provisions for the establishment of the Central Energy Conservation Fund by the Central Government. This clause, *inter alia,* provides that any grant and loan or fees received by the Bureau or sums received by the Bureau from other sources shall be credited on the Central Energy Conservation Fund. The Fund shall be applied for meeting the salary, allowances and remuneration of Director-General, members of the Governing Council, Secretary and officers and other employees of the Bureau and expenses of the Bureau in discharge of its functions and objects for the purposes of this Bill.

Clause 21 contains provisions relating to borrowing powers of the Bureau.

Clause 22 contains provisions for preparation of budget of the Bureau and submission of the same of the Central Government.

Clause 23 provides for preparation by the Bureau of its annual report in the prescribed format, in each financial year and submission of the same to the Central Government.

Clause 24 provides that the Central Government shall cause the annual report of the Bureau to be laid before each House of Parliament.

Clause 25 contains provisions relating to accounts and audit of the Bureau and, *inter alia*, provides that Bureau shall maintain proper accounts and other relevant records, prepare annual statement of accounts in a form prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India. The Accounts of the Bureau as audited by the Comptroller and Auditor-General together with annual report shall be laid before each House of Parliament.

Clause 26 provides for imposition of penalty for failure of compliance with certain provisions of the Bill specified in that clause. The penalty shall not exceed on lakh rupees for each failure and in the case of continuing failure with an additional penalty, which may extend up ten thousand rupees for every day, during which such failure continues. Any amount payable under this clause, if not paid, may be recovered as arrears of land revenue.

Clause 27 contains provisions for adjudication of penalty and *inter alia*, provides that the State Commission shall appoint any of its members as adjudicating officer for holding an enquiry in such a manner as may be prescribed by the Central Government, after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty. In a State where the State Commission has not been established, the State Government shall appoint any of its officers not below the rank equivalent to a Secretary dealing with legal affairs in that State as an adjudicating officer.

Clause 28 provides the factors that may be taken into account by the adjudicating officer in determining the quantum of penalty.

Clause 29 provides that no civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer is empowered by or under the Bill to determine and no injuction shall be granted by any court or other authority in respect of any action taken under the provisions of the Bill.

Clause 30 provides that any person aggrieved by any decision or order of the adjudicating officer or the Central Government or the State Government or any other authority under this Act may file an appeal to the High Court, within sixty days from the date of communication of the decision or order of the adjudicating officer or the Central Government or the State Government or any other authority to him, on any question of fact or law arising out of such order.

Clause 31 seeks to confer power upon the Central Government to issue directions in writing to the Bureau on questions of policy and the Bureau shall be bound by such directions. The Bureau shall be given an opportunity to express its views before any direction is issued by the Central Government.

Clause 32 confers power upon the Central Government to supersede the Bureau in the circumstances specified in that clause.

Clause 33 contains provisions for default by companies and, *inter alia*, provides that every person, who at a time of contravention of any of the provisions mentioned in this clause, was incharge of and was responsible to the company as well as the company shall be deemed to have acted in contravention of the said provisions and shall be liable to be proceeded against and imposed penalty under clause 26 of the Bill.

Clause 34 provides for exemption from tax on income, profits or gains of the Bureau and the Energy Management Centre.

Clause 35 contains provisions for the protection of the action taken in good faith by members of State Commission, Director-General or Secretary or other officers of the Bureau, action taken by the Central and State Government or its officers in good faith.

Clause 36 provides for delegation by Bureau to any of its members, members of the committee, or officers of the Bureau or any other person, such of its powers and functions under the Bill. However, the powers to make regulations can not be delegated.

Clause 37 confers power upon the Bureau to obtain information and such samples of any material or substance used in relation to any equipment or process, as the Bureau may require.

Clause 38 confers powers upon the Central Government and the State Government to exempt in public interest any designated consumer or class of designated consumers from application of all or any of the provisions of the proposed legislation.

Clause 39 provides that Members of the State Commission, Director-General, Members, Secretary, officers and other employees of the Bureau shall be deemed to be public servants when acting in pursuance of any of the provisions of the Act.

Clause 40 seeks to empower the Central Government to issue directions to the State Government or the Bureau as to carrying into execution of provisions of the proposed legislation in the State.

Clause 41 seeks to empower the Central Government to make rules on the matters specified in that clause for carrying out the provisions of the Bill.

Clause 42 seeks to empower the State Government to make rules on the matters specified in that clause for carrying out the provisions of the Bill.

Clause 43 seeks to empower upon the Bureau to make with the previous approval of the Central Government, regulations on the matters specified in that clause.

Clause 44 contains provisions for laying of every rule and every regulation made by the Central Government and Bureau before each House of Parliament. Similarly every rule made by the State Government shall be laid before each House of State Legislature, where it consists of two Houses or where such Legislature consists of one House, before that House.

Clause 45 seeks to provide that the provisions of the Bill shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Clause 46 seeks to empower the Central Government to remove any difficulty which may arise in giving effect to the provisions of the Bill.

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 3 of the Bill proposes to establish the Bureau of Energy Efficiency. Item (f) of sub-clause (2) of clause 4 confers power upon the Central Government to appoint such number of persons as members not exceeding eight, from amongst persons who are representing State Governments and who are in the opinion of the Central Government capable of representing industry, equipment and appliance manufacturer, architects and consumers. Sub-clause (5) of clause 4 provides that these members shall be paid fee and allowances as may be prescribed. Sub-clause (1) of clause 9 states that the Central Government shall appoint a Director-General and a Secretary of the Bureau. Clause 10 confers power upon the Central Government to appoint officers and other employees in the Bureau. Sub-clause (2) of clause 16, *inter alia,* provides for credit of all grants and loans that may be made by the Central Government in the State Energy Conservation Fund. Clause 19 confers power upon the Central Government to make grants to the Bureau after due appropriation made by Parliament by law in this behalf. The Bureau is expected to be set up without substantial creation of new posts as the existing Energy Management Centre, set up and registered under the Societies Registration Act, 1860, is proposed to be transferred to the Bureau on its establishment along with some of the posts available in the Energy Conservation Wing of the Ministry of Power which are also proposed to be transferred to it. The recurring expenditure towards salary and allowances, etc., of the Director-General, Secretary, officers and other employees of the Bureau will be of the order of about one crore rupees per annum. The other additional recurring expediture by way of rent, maintenance of the building to accommodate Bureau of Energy Efficiency, will be of the order of fifty lakh rupees per annum. The expenditure by way of fee and allowances to be paid to the members of the Governing Council is estimated to be of the order of five lakh rupees per annum. Non-recurring expenditure by way of purchase of furnitures, fixtures and office equipment will be of the order of twenty-five lakh rupees.

2. The Bill provides for setting up of a Central Energy Conservation Fund under clause 20 of the Bill for the purpose of promotion of efficient use of energy and its conservation. It is proposed to establish it initially with a cropus of twenty crore rupees.

3. The Bill authorises the Bureau to levy fee in respect of the services provided to various industries and other agencies under item (n) of sub-clause (2) of clause 13 of the Bill. This would enable the Bureau to earn revenue while serving the consumers of energy. It will enable it to become self-sufficient and independent over a period of five to seven years.

4. The Bill if enacted will not incur any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 41 of the Bill confers power upon the Central Government to make rules for carrying out the provisions of the Bill. The matters in respect of which such rules may be made relate, *inter alia,* to provide for such number of persons to be as members appointed by the Central Government under clause (*f*) of sub-section (2) of section 4; the fee and allowances to be paid to the members under sub-section (5) of section 4; other terms and conditions of service of Director-General and Secretary of the Bureau under sub-section (4) of section 9; the terms and conditions of service of officers and other employees of the Bureau under sub-section (2) of section 10; performing such other functions by the Bureau as may be prescribed under clause (*u*) of sub-section (2) of section 13; energy consumption norms or standards for designated consumers under clause (*g*) of section 14; prescribing different norms and standards for different designated consumers under the proviso to clause (*g*) section 14; the form and manner and the time within which information with regard to energy consumed and the action taken on the recommendations of the accredited energy auditor to be furnished under clause (*k*) of section 14; the form and manner in which the status of energy consumption be submitted under clause (*l*) of section 14; minimum qualifications for energy managers under clause (*m*) of section 14; the form and manner for preparation of scheme and its implementation under clause (*o*) of section 14; energy conservation building codes under clause (*p*) of section 14; the matters relating to inspection under sub-section (2) of section 17; the form in which, and the time at which, the Bureau shall prepare its budget under section 22; the form in which, and the time at which, the Bureau shall prepare its annual report under section 23; the form in which the accounts of the Bureau shall be maintained under section 25; the manner of holding inquiry under sub-section (*l*) of section 27; any other matter which is to be, or may be, prescribed or in respect of which provision is to be made, or may be made, by rules.

2. Clause 42 of the Bill confers power on the State Government to make rules for carrying out the provisions of the Bill. The matters in respect of which rules may be made by the State Government relate, *inter alia,* to provide for energy conservation building codes under clause (*a*) of section 15; the form, the manner and the period within

which information with regard to energy consumption shall be furnished under clause (*h*) of section 15; the person or any authority who shall administer the Fund and the manner in which the Fund shall be administered under sub-section (4) of section 16; the matters relating to inspection under sub-section (2) of section 17; any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules, by the State Government.

3. The rules made by the State Government shall be laid, as soon as may be after it is made, before each House of State Legislature, where it consists of two Houses or where such Legislature consists of one House, before that House.

4. Clause 43 of the Bill confers power on the Bureau to make regulations, with the previous approval of the Central Government and subject to the condition of previous publication, not inconsistent with the provisions of the Bill and rules made thereunder to carry out the purposes of the Bill. The matters in respect of which such regulations may be made, *inter alia*, relate to provide the time and places of the meetings of the Governing Council and the procedure to be followed at such meetings under sub-section (*1*) of section 5; the members of the Advisory Committee constituted under sub-section (2) of section 8; the powers and duties that may be exercised and discharged by the Director-General of the Bureau under sub-section (6) of section 9; the levy of fee for services provided for promoting efficient use of energy and its conservation under clause (*n*) of sub-section (2) of section 13; the list of accredited energy auditors under clause (*o*) of sub-section (2) of section 13 and qualifications for accredited energy auditors under clause (*p*) of sub-section (2) of section 13; the manner and intervals of time in which the energy audit shall be conducted under clause (*q*) of sub-section (2) of section 13; certification procedure for energy managers under clause (*r*) of sub-section (2) of section 13; the particulars required to be displayed on label and the manner of their display under clause (*d*) of section 14; the manner and the intervals of time for conduct of energy audit under clause (*h*) or clause (*s*) of section 14; the manner and intervals of time for conducting energy audit by an accredited energy auditor under clause (*c*) of section 15; any other matter which is required to be, or may be, specified.

5. The rules made by the Central Government and regulations made by the Bureau shall be laid, as soon as may be, after they are made, before each House of Parliament.

6. The matters in respect of which rules and regulations may be made are generally matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

LOK SABHA

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to provide for efficient use of energy and its conservation and for matter connected therewith or incidental thereto.

(Shri P.R. Kumaramangalam, Minister of Power)

ANNEXURE II

[*Vide Para 8.9* of Chapter VIII)]

TIME-FRAME FOR IMPLEMENTATION OF VARIOUS ACTIVITIES COMMENCING FROM THE DATE ENACTMENT OF BILL

Description 1	Acitivity 2	Time frame 3
Establishment of the Bureau of Energy Efficiency		3 months
Constitution of Governing Council		4 months
Appoint Director-General and Secretary in the Bureau		3 months
Specify norms for process	Bench marking of energy intensive industries initiated	24 months
Specify equipment or appliance or class of equipment or applicances, for the purposes of this act.	Equipment identification study initiated	6 months
Prohibit manufacture or sale or purchase of equipment or appliances unless such equipment or appliance conforms to energy consumption standards	Testing facilities to be strengthened in 24 months Protocol & certification procedure-8 months Layng stds-12 months Time to be given for manufacture for retooling -24 months Consumer education-6 months	36 months
Specify particulars to be display on labels or on equipment or appliances and in such manner	Protocol and label design-8 months	12 months
Specify, having regard to the intensity or quantity of energy consumed, any user or class of users of energy as a designated consumer		

1	2	3
Establish and prescribe energy consumption norms or standards for designated consumers	Bench marking of energy intensive industries initiated (24 months)	
Direct, having regard to quantity of energy consumed or the norms and standards of energy consumption the energy intenstive industries to get energy audit conducted by an accredited auditor in the manner and intervals of time	Accreditation of energy auditor (12 months) Accreditation procedure study already initiated	18 months
Direct, designated consumer to get energy audit conducted by an accredited auditor		18 months
Specify by rules the matters to be included for the purposes of inspection		12 months
Direct, designated consumer to furnish to the designated agency, within such period, the information with regard to the energy consumed and action taken on the recommendation of the accredited energy auditors		36 months
Direct designated consumer to appoint energy manager in charge of activities for efficient use of energy and its conservation and submit a report, in the form and manner as may be prescribed, on the status of energy consumption at the end of every financial year to the designated agency	Energy manager certification procedure study already initiated (6 months)	18 months
Prescribe minimum qualification for energy managers	Energy manager certification procedure study already initiated 6 months)	6 months
Direct designated consumer to comply with energy consumption standards or norms		36 months

1	2	3
Prescribe energy conservation building codes for efficient use of energy and its conservation in the building or complex building Complex	Study initiated to prepare energy conservation building codes	12 months
Amend the energy conservation building codes to suit the regional and local climatic conditions		12 months
Direct owner or occupier of the building or building complex being a designated consumer to comply with the provisions of energy conservation building codes		24 months
Direct, designated consumer in his building to get energy audit conducted in respect of such building and accredited auditor		30 months
Create awareness and disseminate information for efficient use of energy and its conservation		6 months
Arrange and organise training of personnel and specialists in the techniques of efficient use of energy and its conservation		6 months
Encourage preferential treatment for use of energy efficient equipment or appliances		12 months

ANNEXURE III

[*Vide* Para 4 of the Introduction]

DETAILS OF EXPERTS/ORGANISATIONS WHO SUBMITTED MATERIAL/MEMORANDUM IN CONNECTION WITH THE EXAMINATION OF ENERGY CONSERVATION BILL, 2000

1. Tata Energy Research Institute, Bangalore
2. Federation of Indian Chamber of Commerce and Industry (FICCI), New Delhi.
3. Confederation of Indian Industry (CII), New Delhi.
4. Bureau of Indian Standards (BIS), New Delhi.
5. Central Electricity Authority (CEA), New Delhi.
6. National Productivity Council (NPC), New Delhi.
7. Petroleum Conservation Research Association (PCRA), New Delhi.
8. BSES Limited, Mumbai.
9. Edel Engineering Consultancy Private Limited (EECPL)
10. Surya Foundation
11. The Institution of Engineers (India), Karnataka State Centre.
12. Yajna Fuel Services (YFS)
13. Best Choice Systems (P) Ltd.
14. PCB House
15. Laghu Udyog Bharati
16. United States Agency for International Development, New Delhi (Shri S. Padmanaban, Sr. Energy & Environment Advisor)
17. Shri Avinash Bakhri

18. Dr. Govind M. Phadke
19. Shri A.R. Kejariwal
20. Industrial & Business Consultant (Shri D.K. Pandya)
21. Janata Party (Shri Arvind Chaturvedi, National Gen. Secy.)
22. Madurai Kamaraj University (Shri D. Suresh)
23. Yusuf Mohammad Shaikh
24. Greater Mysore Chamber of Industry
25. Indian Electrical and Electronics Manufacturer Association (IEEMA)
26. Association of Indian Investors
27. The Institution of Enginers (India) Pune Local Centre
28. Director-General & Secretary, The Institution of Electrical Engineers (India) (Dr. J.K. Tiwari)
29. Petroleum Conservation Research Association
30. Enercon Systems Private Limited
31. Control Automation & Devices
32. DCM Shriram Consolidated Limited
33. IBPS Urja Research Foundation
34. National Institute of Industrial Engineering
35. Progressive Urban Rural Education (S&T) Research Organisation (PURE)
36. Mecon Limited
37. Consulting Engineer (Shri S.K. Datta)

APPENDIX I

MINUTES OF THE TWELFTH SITTING OF STANDING COMMITTEE ON ENERGY (1999-2000) HELD ON 10TH AUGUST, 2000 IN COMMITTEE ROOM 'B', PARLIAMENT HOUSE ANNEXE, NEW DELHI.

The Committee sat from 9.30 hours to 10.50 hours.

PRESENT

Shri Sontosh Mohan Dev — *Chairman*

2. Shri Basudeb Acharia
3. Shri Rajbhar Babban
4. Shri V.P. Singh Badnore
5. Shri Sanat Kumar Mandal
6. Shri Amar Roy Pradhan
7. Shri Chada Suresh Reddy
8. Shri Harpal Singh Sathi
9. Shri Chandra Pratap Singh
10. Shri Tilakdhari Prasad Singh
11. Prof. Ummareddy Venkateswarlu
12. Shri P.R. Khunte
13. Shri Girdhari Lal Bhargava
14. Shri Trilochan Kanungo
15. Shri Manohar Kant Dhyani
16. Shri Aimaduddin Ahmad Khan (Durru)
17. Shri Vedprakash P. Goyal
18. Shri Rama Shanker Kaushik
19. Dr. Akhtar Hasan Rizvi
20. Shri Santosh Bagrodia
21. Shri Ramamuni Reddy Sirigireddy
22. Ven'ble Dhamma Viriyo
23. Shri R.P. Goenka
24. Shri B.J. Panda

SECRETARIAT

1. Shri P.K. Bhandari — *Deputy Secretary*
2. Shri R.S. Kambo — *Under Secretary*

Representatives of Ministry of Power

1. Shri S.S. Sharma — Special Secretary (Power)
2. Shri R.N. Srivastava — Chairman, Central Electricity Authority
3. Shri J. Vasudevan — Additional Secretary (Power)
4. Shri Shashi Shekhar — Director (Thermal)
5. Shri S.S. Talwar — Deputy Secretary (EC)
6. Shri Dharam Paul — Chief Engineer (I/c), CEA
7. Shri S. Ramaswamy — Energy Economist, Energy Management Centre
8. Shri K.K. Chakravarty — Energy Economist, Energy Management Centre

At the outset, the Chairman welcomed the Members to the sitting of the Committee. The Chairman informed the Committee that Shri E. Balanandan, M.P. consequent upon his retirement from Rajya Sabha ceased to be the Member of the Committee *w.e.f.* 1st July, 2000. The Committee then placed on record their appreciation for the valuable service rendered by him. The Committee wished him well.

2. The representatives of Ministry of Power were then called in. The Chairman apprised them the Direction 58 of the Directions by Speaker, Lok Sabha.

3. The Special Secretary, Ministry of Power then briefed the Committee on the various provisions of the Energy Conservation Bill, 2000. The important points emerging out of discussion are as under:

(i) Necessity in enacting the present legislations in the context of world scenario and shortage and mis-utilisation of power.

(ii) Education and other promptional drive in agriculture, domestic and industrial sectors to conserve energy.

(iii) Means to enthuse the consumers and industry to adopt energy conservation measures, especially when large investment is required to bring about the required efficiency.

(iv) Fixation of norms and standards for appliances, equipments for energy consumption. Consideration of fuel price & quality while considering energy norms.

(v) Mandatory energy audits for the designated consumers.

(vi) Safeguarding the interest of small and medium enterprises in the light of the Bill.

(vii) Creation of another Government agency *i.e.* Bureau of Energy Efficiency to undertake energy conservation measures.

(viii) Introduction of 'Inspector Raj' and other associated harassment to the consumers. Safeguard against the misuse of the provision of the Bill.

(ix) Expansion of energy intensive industries list by including Railway, Port Trust, Refineries, etc. in the schedule.

(x) Mechanism to eliminate the manufacture & sale of energy inefficient appliances and equipments.

4. The Committee then decided to meet again on 11th August, 2000 to take further evidence of the representatives of Ministry of Power.

5. A copy of the verbatim proceedings of the Committee has been kept on record.

The Committee then adjourned.

APPENDIX II

MINUTES OF THE THIRTEENTH SITTING OF STANDING COMMITTEE ON ENERGY (1999-2000) HELD ON 11TH AUGUST, 2000 IN COMMITTEE ROOM 'B', PARLIAMENT HOUSE ANNEXE, NEW DELHI.

The Committee sat from 9.30 hours to 10.45 hours.

PRESENT

Shri Sontosh Mohan Dev — *Chairman*

2. Shri Basudeb Acharia
3. Shri V.P. Singh Badnore
4. Shri Sanat Kumar Mandal
5. Shri Amar Roy Pradhan
6. Shri B.V.N. Reddy
7. Shri Chada Suresh Reddy
8. Shri Chandra Pratap Singh
9. Shri Tilakdhari Prasad Singh
10. Prof. Ummareddy Venkateswarlu
11. Shri P.R. Khunte
12. Shri Girdhari Lal Bhargava
13. Shri Vedprakash P. Goyal
14. Shri Ramamuni Reddy Sirigireddy
15. Ven'ble Dhamma Viriyo
16. Shri R.P. Goenka

SECRETARIAT

1. Shri P.K. Bhandari — *Deputy Secretary*
2. Shri R.S. Kambo — *Under Secretary*

Representatives of Ministry of Power

1. Shri A.K. Basu — Secretary (Power)
2. Shri S.S. Sharma — Special Secretary (Power)
3. Shri R.N. Srivastava — Chairman, Central Electricity Authority

4. Shri J. Vasudevan — Additional Secretary (Power)
5. Shri Shahi Shekhar — Director (Thermal)
6. Shri S.S. Talwar — Deputy Secretary (EC)
7. Shri Dharam Paul — Chief Engineer (I/c), CEA
8. Shri S. Ramaswamy — Energy Economist, Energy Management Centre
9. Shri K.K. Chakravarty — Energy Economist, Energy Management Centre

At the outset, the Chairman welcomed the representatives of Ministry of Power to the sitting of the Committee and apprised them the provision of Direction 58 of the Directions by the Speaker. Thereafter, the Committee took further evidence of the representatives of the Ministry of Power on the Subject "The Energy Conservation Bill, 2000".

2. The major points emerging out of the discussion are as under:

(i) Justification of enacting a separate legislation when Electricity Bill, 2000 is in offing.

(ii) Norms and Standards ought to be evolved through consensus approach and by interactive exercise between the Bureau of Energy Efficiency & the Industry. Consideration of ISO Standards & Norms.

(iii) Different Norms Standards for different product *i.e.* one set of standard for international brand and another set of standard for locally produced goods.

(iv) Composition, method of Selection of Governing Council to the Bureau of Energy Efficiency.

(v) Prescribing qualification, tenure and methods of Selection of Energy Auditors.

(vi) Powers and duties of Inspecting Officers.

(vii) Constitution of Tribunal for speedy disposal of cases relating to energy conservation.

(viii) Untilisation of expertise and infrastructure of existing organisations like CEA for meeting the objectives of the Bill, instead of creating a new organisation.

(ix) More emphasis to be given for promotion of awareness and education of consumers in the initial years.

(x) Introduction of energy efficient equipment in agriculture sector.

(xi) Deferring penal provisions to another 5 years.

(xii) System of awards and rewards for energy conservation.

3. A copy of the verbatim proceedings of the Committee has been kept on record.

The Committee then adjourned.

APPENDIX III

MINUTES OF THE FOURTEENTH SITTING OF STANDING COMMITTEE ON ENERGY (1999-2000) HELD ON 27TH SEPTEMBER, 2000 IN COMMITTEE ROOM 'C', PARLIAMENT HOUSE ANNEXE, NEW DELHI.

The Committee sat from 15.00 hours to 16.00 hours.

PRESENT

Shri Sontosh Moahn Dev — *Chairman*

2. Shri Basudeb Acharia
3. Shri Prakash Yashwant Ambedkar
4. Shri Rajbhar Babban
5. Shri Vijayendra Pal Singh Badnore
6. Shri M. Durai
7. Shri Sanat Kumar Mandal
8. Shri Amar Roy Pradhan
9. Shri Harpal Singh Sathi
10. Shri Manoj Sinha
11. Shri Ramji Lal Suman
12. Shri P.R. Khunte
13. Shri Girdhari Lal Bhargava
14. Shri Trilochan Kanungo
15. Shri Lakhiram Agarwal
16. Shri Brahamakumar Bhatt
17. Shri Manohar Kant Dhyani
18. Shri Aimaduddin Ahmad Khan (Durru)
19. Shri Vedprakash P. Goyal
20. Shri Santosh Bagrodia
21. Shri Rammamuni Reddy Sirigireddy
22. Shri B.J. Panda
23. Shri V.V. Raghavan
24. Ven'ble Dhamma Viriyo

SECRETARIAT

1. Shri P.K. Bhandari — *Deputy Secretary*
2. Shri R.S. Kambo — *Under Secretary*

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee.

3. Thereafter, the Committee considered the draft Report on the subject "The Energy Conservation Bill, 2000". Some Members suggested certain additions/deletions/modifications to the draft Report which were effected at appropriate places.

4. The Committee decided to undertake Study Tours to (i) Cochin and Lakshadweep and (ii) Chennai, Andaman & Nicobar Islands and Calcutta in the first week of November, 2000 simultaneously in two separate Study Groups.

5. The Committee also decided to meet again on 4th October, 2000 to further consider and adopt the draft Report.

The Committee then adjourned.

APPENDIX IV

MINUTES OF THE FIFTEENTH SITTING OF STANDING COMMITTEE ON ENERGY (1999-2000) HELD ON 4TH OCTOBER, 2000 IN COMMITTEE ROOM 'E', PARLIAMENT HOUSE ANNEXE, NEW DELHI.

The Committee sat from 09.30 hours to 10.00 hours.

PRESENT

Shri Vedprakash P. Goyal — *In the Chair*

2. Shri Prasanna Acharya
3. Shri Lal Muni Chaubey
4. Shri Sanat Kumar Mandal
5. Shri Amar Roy Pradhan
6. Shri Dalpat Singh Parste
7. Shri Tilakdhari Prasad Singh
8. Shri Ramji Lal Suman
9. Shri Girdhari Lal Bhargava
10. Shri Manoj Sinha
11. Shri Trilochan Kanungo
12. Shri Lakhiram Agarwal
13. Shri Manohar Kant Dhyani
14. Shri Aimaduddin Ahmad Khan (Durru)
15. Shri Rama Shanker Kaushik
16. Shri Ramamuni Reddy Sirigireddy
17. Ven'ble Dhamma Viriyo
18. Shri B.J. Panda
19. Shri V.V. Raghavan
20. Shri Santosh Bagrodia

SECRETARIAT

1. Shri P.K. Bhandari — *Deputy Secretary*
2. Shri R.S. Kambo — *Under Secretary*

2. In the absence of the Chairman, the Committee chose Shri Vedprakash P. Goyal, M.P. to act as Chairman during the sitting in terms of Rule 258 (3) of the Rules of Procedure and Conduct of Business in Lok Sabha. The acting Chairman welcomed the Members to the sitting of the Committee.

3. Thereafter, the Committee took up the draft Report on the subject "The Energy Conservation Bill, 2000" for further consideration and adopted the same without any further addition/deletion/amendment.

4. The Committee authorised the Chairman to finalise the Report after making consequential changes arising out of factual verification by the Ministry concerned and to present the same to both the Houses of Parliament.

The Committee then adjourned.